

1 IN THE COUNTY OF WASHINGTON

2
3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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7
8 JANUARY 18, 2005

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11 APPEARANCES:

12 DENNIS GARBIS - PUBLIC MEMBER

BILL HARRIS - PUBLIC MEMBER

13 BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

14 JIM MCINTRYE - CITIZEN APPOINTEE

15 SHARON PIGEON - OFFICE OF THE ATTORNEY GENERAL

16 BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND
17 PRINCIPAL EXECUTIVE TO THE STAFF OF THE BOARD

	<u>INDEX</u>		
	<u>AGENDA AND DOCKET NUMBERS:</u>	<u>UNIT</u>	<u>PAGE</u>
1	1)	Report of escrow account	3
3	2)	VGOB-05-0118-1382	A-30 4
4	3)	VGOB-05-0118-1383	AY-135 10
5	4)	VGOB-05-0118-1384	BE-112 33
6	5-11)	VGOB-05-0118-1385	BE-113 37
7		VGOB-05-0118-1386	BF-112
		VGOB-05-0118-1387	BF-113
		VGOB-05-0118-1388	BF-114
8		VGOB-05-0118-1389	BG-112
		VGOB-05-0118-1390	BH-112
9		VGOB-05-0118-1391	BI-112
10	12)	VGOB-05-0118-1392	BI-117 43
11	13)	VGOB-05-0118-1393	K-34 48
12	14)	VGOB-05-0118-1394	V-503211 95
13	15)	VGOB-05-0118-1395	VC-535631 110
14	16)	VGOB-05-0118-1396	VC-502967 WITHDRAWN
15	17)	VGOB-05-0118-1394	V-503211 113
16	18)	VGOB-93-0216-0325-02	Mod. Field Rules 55
17	19)	VGOB-98-0120-0617-01	S-17 129
18	20)	VGOB-92-1117-0284-01	T-17 136
19	21)	VGOB-97-0721-0240-01	W-20 153
20	22)	VGOB-92-0721-0237-01	S-15 157
21	23)	VGOB-92-0721-0236-01	T-15 160
22	24)	VGOB-92-1117-0283-01	T-16 162
23	25)	VGOB-94-1024-0475-01	U-19 165

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1 **Approve minutes from last hearing
2 ***Agenda attached

3 BENNY WAMPLER: Okay, we'll go ahead and get
4 started. Good Morning, my name is Benny Wampler. I'm Deputy
5 Director for the Virginia Department of Mines, Minerals and
6 Energy, and Chairman of the Gas and Oil Board. I'll ask the
7 members to introduce themselves, starting with Mr. Garbis.

8 DENNIS GARBIS: My name is Dennis Garbis. I'm a
9 public member from Fairfax County.

10 BILL HARRIS: I'm Bill Harris, a public member from
11 Wise County.

12 SHARON PIGEON: I'm Sharon Pigeon with the Office
13 of the Attorney General.

14 JIM MCINTYRE: Jim McIntyre. I'm a citizen
15 appointee from Wise, Virginia.

16 BOB WILSON: I'm Bob Wilson. I'm the Director of
17 the Division of Gas and Oil, and principal executive to the
18 Staff of the Board.

19 BENNY WAMPLER: The first item on the agenda is a
20 year end report on the Board escrow account administered by
21 Wachovia Bank, escrow agent. Mr. Wilson, do you---?

22 BOB WILSON: Yes, sir. I passed out a copy of the
23 quarterly report for the last quarter of the calendar year of
24 2004. Our beginning balance as of September 30, 2004 was

1 \$9,779,800.76. During the quarter, we received deposits of
2 \$585,659.88. We received interest payments of \$36,216.42.
3 During that time, we disbursed escrow moneys in the amount of
4 \$370,543.15, leaving us with a year end balance of
5 \$10,031,133.91. Our interest rate as of the end of the year
6 was not posted when this report was done. We were at 1.75%
7 in November, which is the last month that that figure is
8 available.

9 Now, attached to what you have there, which I gave
10 to the Board members, is the escrow repayment report, which
11 we get twice yearly. This lists all of the moneys that have
12 been paid out during the last half of calendar 2004. That
13 amounts to \$375,237.90. For the year, we began 2004 with a
14 balance of \$8,156,166.54. We had an ending balance, as I
15 just stated, of \$10,031,133.91. There was a net increase of
16 \$1,874,967.37. That came on deposits of \$2,230,414.77;
17 interest of \$97,362.55. During the year, there were
18 disbursements paid out \$393,164.74. We paid contract fees in
19 the amount of \$60,000 for the year. The interest rates
20 essentially doubled during the year. Of course, they started
21 out pretty low. They had nowhere to go but up. But they
22 went up from .89% as of January to 1.75% in the last month
23 that has been reported. That's all I have on that.

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1 BENNY WAMPLER: Questions from members of the
2 Board?

3 (No audible response.)

4 BENNY WAMPLER: Thank you, Mr. Wilson. The next
5 item on the agenda is a petition from CNX Gas Company, LLC
6 for pooling of coalbed methane unit A-30. This is docket
7 number VGOB-05-0118-1382. We'd ask the parties that wish to
8 address the Board in this matter to come forward at this
9 time.

10 MARK SWARTZ: Mark Swartz and Les Arrington.

11 (Anita Duty passes out exhibits.)

12 BENNY WAMPLER: The record will show there are no
13 others. You may proceed.

14 MARK SWARTZ: Would you swear the witness?

15 (Leslie K. Arrington is duly sworn.)

16 MARK SWARTZ: Just kind of an overview. There are
17 twelve units to be pooled today. The first one, which is
18 docket item number two, is an Oakwood unit and docket number
19 thirteen, K-34, is an Oakwood unit. All of the ones in
20 between are Middle Ridge. All the units are standard sizes,
21 you'll hear that from Les, but we don't have any unusual, you
22 know, acreages.

23 The only unit that has revised exhibits between the

24

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1 time that the applications were prepared and filed and served
2 and today is docket item number three. So there will be...
3 Anita will eventually get the exhibits to you that we filed.
4 But there are revisions on...on Exhibit number...I'm sorry,
5 on docket item number three, which we'll get to next, and
6 those revisions have been captured, however, in the
7 spreadsheet summary that you have today. So, but
8 that's...that's the only one.

9

10 LESLIE K. ARRINGTON

11 having been duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. All right, Les, let's get started with A-30.

16 You need to state your name for us.

17 A. Leslie K. Arrington.

18 Q. Who do you work for?

19 A. CNX Gas Company, LLC.

20 Q. What do you do for them?

21 A. Manager of environmental and permitting.

22 Q. Is CNX Gas Company, LLC a Virginia general
23 partnership?

24

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1 A. Yes, it is.

2 Q. And is it a wholly owned indirect subsidiary
3 of Consol Energy, Inc.?

4 A. Yes.

5 Q. Is it authorized to do business in the
6 Commonwealth?

7 A. Yes, it is.

8 Q. And the applicant here is CNX, and who is it
9 that the applicant is requesting, if the application is
10 approved, be appointed the Board's designated operator?

11 A. CNX Gas Company.

12 Q. And with regard to that, has CNX registered
13 with the gas company...LLC registered with the DMME?

14 A. Yes, it is.

15 Q. And does it have a blanket bond on file?

16 A. Yes.

17 Q. Okay. Have you listed the respondents with
18 regard to the pooling application for A-30 both on the notice
19 of hearing and an Exhibit B-3?

20 A. Yes, we have.

21 Q. Okay. And what did you do to notify those
22 respondents of the hearing today?

23 A. We mailed by certified mail, return receipt

24

1 requested on December the 10th, 2004; published in the
2 Bluefield Daily Telegraph on December the 31st, 2004.

3 Q. Okay. Do you want to amend the list of
4 respondents by adding or subtracting any?

5 A. No.

6 Q. Okay. Did you file your proofs of mailing
7 and publication with Mr. Wilson?

8 A. Yes.

9 Q. This is an Oakwood I unit, correct?

10 A. Yes, it is.

11 Q. It's an 80 acre unit?

12 A. Yes.

13 Q. And how many wells are you proposing?

14 A. One.

15 Q. And is that well to be located inside the
16 drilling window?

17 A. Yes, it is.

18 Q. Okay. And it's depicted on the plat, the
19 location?

20 A. Yes.

21 Q. Okay. What...what are you seeking to
22 escrow...what are you seeking to pool with this application?

23 A. We have leased in this unit 98.662% of the
24

1 coal, oil and gas owners claim to coalbed methane. We're
2 seeking to pool 1.338% of the coal, oil and gas claim to
3 coalbed methane.

4 Q. Okay. Have you filed the well estimate or a
5 cost estimate with regard to the proposed well?

6 A. Yes, we have, \$195,701.01 to an estimated
7 depth of 2320 feet. Its permit number is 6147.

8 Q. And with regard to this unit, it doesn't
9 look like there is any requirement of escrow, is that
10 correct?

11 A. That's correct, it is not.

12 Q. So the folks that you're pooling could be
13 paid directly?

14 A. Correct.

15 Q. Sort of to wrap up here, is it your opinion
16 that the development plan, which is to drill one well and
17 location shown on the plat within the drilling window, is a
18 reasonable plan to develop the coalbed methane within
19 this...within and under this Oakwood unit?

20 A. Yes, it is.

21 Q. And if you take the leasing program that the
22 applicant has implemented and succeeded in, and combine that
23 with the pooling order here that would pool an additional
24

1 1.3380%, is it your opinion that the, though taken together,
2 that would protect the correlative rights of all of the
3 owners and claimants?

4 A. Yes, it will.

5 MARK SWARTZ: That's all I have, Mr. Chairman.

6 BENNY WAMPLER: Questions from members of the
7 Board?

8 JIM MCINTYRE: That well is already drilled. Is
9 that a estimated cost or actual cost that you have?

10 LESLIE K. ARRINGTON: It's both. I'm still
11 accumulating the costs. Mostly the costs would be that you
12 see on the well estimate. Some of it will be in bold. The
13 bold indicates actuals, and then still there's some estimated
14 cost out there.

15 MARK SWARTZ: Actually, if you look at it, it looks
16 like the majority of the costs, in terms of dollars are, in
17 fact, in bold and are actual costs.

18 LESLIE K. ARRINGTON: Yes.

19 MARK SWARTZ: Would that...would that be a fair
20 statement?

21 LESLIE K. ARRINGTON: It is. It takes them a while
22 to get all of the invoices in.

23 BENNY WAMPLER: Other questions from members of the
24

1 Board?

2 (No audible response.)

3 BENNY WAMPLER: Do you have anything further, Mr.

4 Swartz?

5 MARK SWARTZ: No, I do not.

6 BENNY WAMPLER: Is there a motion?

7 JIM MCINTYRE: Motion to approve.

8 BILL HARRIS: Second.

9 BENNY WAMPLER: Motion and second. Any further

10 discussion?

11 (No audible response.)

12 BENNY WAMPLER: All in favor, signify by saying

13 yes.

14 (All members signify by saying yes.)

15 BENNY WAMPLER: Opposed, say no.

16 (No audible response.)

17 BENNY WAMPLER: You have approval. The next item

18 on the agenda is a petition from CNX Gas Company, LLC for

19 pooling of coalbed methane unit AY-135, docket number VGOB-

20 05-0118-1383. We'd ask the parties that wish to address the

21 Board in this matter to come forward at this time.

22 MARK SWARTZ: Mark Swartz and Les Arrington again.

23 BENNY WAMPLER: Now, if there are folks here that

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1 wish to address the Board for this unit, I understand from
2 Mr. Wilson, several have expressed interest in this. If
3 you're here listen, that's fine. If you want to speak, you
4 need to come forward and identify yourself for the record,
5 okay.

6 LARRY SMITH: When...when will we speak?

7 BENNY WAMPLER: You'll...you'll need to be up here
8 and identify yourself and then---.

9 (Larry Smith and Clement Smith come forward.)

10 BENNY WAMPLER: Okay, if you would, just identify
11 yourselves for the record, please.

12 LARRY SMITH: I'm Larry Smith.

13 CLEMENT SMITH: I'm Clement Smith, I'm his son.
14 I'm representing my dad.

15 BENNY WAMPLER: Okay.

16 CLEMENT SMITH: He can't hear very well.

17 BENNY WAMPLER: You may proceed, Mr. Swartz.

18

19

20 LESLIE K. ARRINGTON

21 DIRECT EXAMINATION

22 QUESTIONS BY MR. SWARTZ:

23 Q. Les, you need to state your name, again.

24

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1 A. Leslie K. Arrington.

2 MARK SWARTZ: Mr. Chairman, I'd like to incorporate
3 the testimony from the previous hearing with regard to Mr.
4 Arrington's employment, with regard to CNX as an applicant,
5 and as...and as proposed designated operator.

6 BENNY WAMPLER: That will be incorporated.

7 Q. Les, did you either prepare, or under your
8 supervision have prepared, the notice of hearing, application
9 and related exhibits with regard to this pooling application
10 for AY-135?

11 A. Yes, I did.

12 Q. Okay. And the applicant here is who?

13 A. CNX Gas Company, LLC.

14 Q. And as customary, is CNX requesting that it
15 be appointed the designated operator as well?

16 A. Yes.

17 Q. Between---?

18 BENNY WAMPLER: Mr. Swartz, before you start, do
19 you have an extra copy of this to give them?

20 MARK SWARTZ: Probably. Here you go.

21 LARRY SMITH: Thank you.

22 Q. Between the time that this application was
23 originally filed and today, were you able to identify some
24

1 people who were listed as unknowns in the original
2 application?

3 A. Yes, we were.

4 Q. If we look at the original application,
5 under Tract 2C, little f, there were some Mason Smith heirs
6 and address and heirs unknown was the...was the designation,
7 correct?

8 A. Yes, sir. Yes.

9 Q. Okay. And between filing this and
10 publishing this, were you able to identify additional people
11 there?

12 A. Yes, we have.

13 Q. Okay. And is that identification
14 essentially the explanation for why we have today the revised
15 exhibits?

16 A. Yes.

17 Q. Okay. So if we look at Exhibit...the
18 revised Exhibit B-3 that you filed today, and we look under
19 Tract 2C and again little f, we now have a list of folks and
20 we have addresses for them?

21 A. That's correct.

22 Q. And so the revised exhibits, obviously we've
23 got an exhibit...a revised B-3 for the reasons we've just

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1 talked about and then the revision to Exhibit E, escrow
2 exhibit, would pertain to that as well?

3 A. Yes, it would.

4 Q. And then we have an Exhibit B-2, which
5 usually means we're dismissing some people, is that correct?

6 A. No, I believe B-2 is just the adding.

7 Q. Oh, it's just for adding folks---.

8 A. Yes.

9 Q. ---for the reasons we've stated.

10 LARRY SMITH: May I say something right now? Barry
11 Smith does not have an interest in this property anymore. I
12 own his interest. So he would not be a part of this.

13 MARK SWARTZ: Okay, we need a deed or something to
14 that effect. Obviously, we weren't picking that up at the
15 courthouse.

16 LARRY SMITH: It's on file at Tazewell County.

17 MARK SWARTZ: Okay. And your name is?

18 LARRY SMITH: Larry Smith.

19 MARK SWARTZ: Larry Smith?

20 LARRY SMITH: Yes, sir.

21 Q. And Exhibit A, page two has been revised as
22 well, correct?

23 A. Yes.

24

1 Q. Okay. Would you tell the Board what
2 interest you've been able to acquire by lease and what
3 interest you're seeking to pool today?

4 A. We have 100% of the coal owners' claim to
5 coalbed methane leased; 39.175% of the oil and gas owners'
6 claim to coalbed methane leased. We're seeking to pool
7 60.825% of the oil and gas owners' claim to coalbed methane.

8 Q. For the people that you've leased, whether
9 they have coal claims or oil and gas claims, what have the
10 coalbed methane terms that you've offered been?

11 A. Our standard coalbed methane lease is a
12 dollar per acre per year with a five year paid up term and a
13 one-eighth production royalty.

14 Q. And are you prepared to offer those same
15 terms to the folks that you have yet to have leased?

16 A. That's correct, we are.

17 Q. And are you requesting that the Board
18 incorporate those...those terms into any Board order it might
19 enter with regard to folks who turn out to be deemed to have
20 been leased?

21 A. Yes, we are.

22 Q. With regard to notifying people of today's
23 hearing, would you tell the Board what you did?

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1 A. From the original application, we mailed by
2 certified mail, return receipt requested on December the 10th
3 2004; published in the Bluefield Daily Telegraph on December
4 the 31st, 2004.

5 Q. Okay, have you filed proofs with regard to
6 publication and with regard to mailing---?

7 A. Yes.

8 Q. ---with Mr. Wilson?

9 A. (No audible response.)

10 Q. Okay, this is a Middle Ridge unit?

11 A. Yes.

12 Q. How many acres?

13 A. 58.74.

14 Q. How many wells are you proposing?

15 A. One.

16 Q. And where is it located in relation to the
17 window?

18 A. Within the window.

19 Q. And that's all shown on the plat map?

20 A. Yes, it is.

21 Q. Do you have an estimate with regard to well
22 costs for this unit?

23 A. Yes. \$213,264.12 to a depth of 2,182.63

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1 feet. Permit number is 6308 and it is drilled.

2 Q. Okay. And the cost estimate is included, is
3 it not?

4 A. Yes.

5 Q. And it shows the costs that...in this
6 instance, you probably have more costs that are not...that
7 are estimates as opposed to actuals, is that correct?

8 A. Yes.

9 Q. Just the opposite of the last one?

10 A. Right.

11 Q. Other than the folks that you have added in
12 Exhibit B-2, do you wish to add anybody else today?

13 A. No.

14 Q. Subject to checking the records, obviously,
15 we need to make an adjustment with regard to Mr. Smith's
16 additional...Larry Smith's additional interest.

17 A. That's correct.

18 Q. But pending that and the possibility that
19 you might dismiss a respondent as a result of that, is there
20 anybody else you want to dismiss today?

21 A. No.

22 Q. Okay.

23 LARRY SMITH: Can I ask a question?

24

1 MARK SWARTZ: Sure.

2 LARRY SMITH: The addresses to all of Mason Smith's
3 heirs were on file at the Tazewell County Courthouse, current
4 addresses. I don't understand why they were not notified. I
5 have one sister that was notified and no one else in that
6 family was until, I think, my mom made a phone call and I got
7 a lease in the mail just a few days ago.

8 LESLIE K. ARRINGTON: We must have missed it. And
9 that's the reasons we've added people. We do continuously
10 check the records. We must have overlooked something. And
11 that's what we're trying to correct.

12 LARRY SMITH: Right, there were four landowners
13 that were overlooked and I just wondered why that could
14 be...why she could be picked up and the rest could not, and
15 everyone's address is on file, their current address.

16 BOB WILSON: Mr. Chairman.

17 BENNY WAMPLER: Mr. Wilson?

18 BOB WILSON: Could you speak up a bit? We're not
19 able to pick you up on the microphone there.

20 LARRY SMITH: Oh, I'm sorry. My question was there
21 were five...six original heirs, but five later, Doris Mason
22 Smith's Estate, and only one was notified. The other four
23 were not notified.

24

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1 LESLIE K. ARRINGTON: Yes.

2 LARRY SMITH: All have current addresses on file at
3 the county courthouse.

4 LESLIE K. ARRINGTON: Okay. And what we picked up
5 was apparently your sister's, Donna.

6 LARRY SMITH: Yes.

7 LESLIE K. ARRINGTON: We picked up your sister's
8 address and we overlooked the rest of them. That's what
9 we're trying to do is catch everybody with new exhibits and,
10 hopefully, you did receive a proposed lease from us.

11 LARRY SMITH: I did receive that.

12 LESLIE K. ARRINGTON: Okay.

13 LARRY SMITH: But nothing of the meeting or
14 anything. I had to get that from her. I was kind of in a
15 hurry. I wasn't aware of a lot of this.

16 LESLIE K. ARRINGTON: I understand.

17 CLEMENT SMITH: What---?

18 BENNY WAMPLER: Would you state your name, again?

19 CLEMENT SMITH: My name is Clement Smith and the
20 account on Exhibit B-3 sheet, he had the William Drewy Smith
21 heirs. He was part of it, owner in it. Then he had the
22 Clement A. Smith, the 1.2 acres. He has got one-sixth of .72
23 acres on it. Then on the Clement Smith, he has got down on
24

1 Tract 2f, he's got 1.71 acres on it. I believe that's it.
2 Now, how do they go about paying you and everything, an one-
3 eighth of a percent, I understand? Is that what they're
4 saying?

5 BENNY WAMPLER: Mr. Swartz, do you want describe
6 the payout on this?

7 MARK SWARTZ: Well, let me first look and see if
8 there's escrow.

9 LESLIE K. ARRINGTON: Yes...yes.

10 MARK SWARTZ: Okay, if you look at the revised
11 Exhibit E that you got today. Yeah, you got it...keep going
12 that's B-3. There you go. If you come down, for example, to
13 Tract 2C, the coal owner is Coal Creek Coal Company and then
14 you've got a collection of oil and gas owners that are not
15 the same people.

16 CLEMENT SMITH: Right.

17 MARK SWARTZ: So, the first thing you need to know,
18 and then I'll get to how it would ultimately be divided, but
19 the first thing you need to know is if the Board approves
20 this application today, any royalty or other moneys
21 attributable to Tract 2C is going to go to the Board's escrow
22 agent. You heard about it, you know, the report...the annual
23 report from them, the first thing on the docket today. You

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1 need to either enter into an agreement with the coal company
2 to agree to split royalties or you need to duke it out in
3 Court. I mean, it's...a lot of people settle those claims.
4 I don't really know about Coal Creek Coal Company, whether or
5 not they're a company that's interested in that, but a lot of
6 the companies are.

7 CLEMENT SMITH: What's the next step to take it to
8 Court, if you go to Court?

9 MARK SWARTZ: You have to hire a lawyer and
10 litigate---.

11 CLEMENT SMITH: Just go ahead and hire a lawyer?

12 MARK SWARTZ: ---who has...who has got title to the
13 coalbed methane between them and yourself. It wouldn't
14 involve these people.

15 CLEMENT SMITH: I know that we own the mineral
16 rights for sure to it.

17 MARK SWARTZ: Well, they're certainly going to
18 argue that they own the coal and have a claim to coalbed
19 methane. You know, we're picking them up as a coal owner.

20 CLEMENT SMITH: Yeah.

21 MARK SWARTZ: Whether they're right or not, I don't
22 know. But we need to list everybody that has got an
23 interest. So, just...just...the first part of an answer to
24

1 your question is, the money is going to be allocated to Tract
2 2C. It's going to be paid into escrow in total, okay. Then
3 you either need to work something out with them or you need
4 to litigate with them and whatever. You know, if there's an
5 agreement, you bring it to the Board and the Board will honor
6 that agreement. If there's a judgment, the Court will...the
7 Board will honor the judgment. But that would be how the
8 money gets released from escrow. In terms of calculating
9 what's going to get paid in, and I'm just going to leave it
10 with Tract 2...at the 2C level rather than get too
11 complicated here. But if you follow this thing, you can come
12 down it and make your own calculation. There's a one-eighth
13 royalty, okay, typically. If you take, there's a reported
14 interest in unit on Exhibit E, it should be the same
15 percentage that's on Exhibit B-3, okay, because there's also
16 an interest in unit reported in Exhibit B-3.

17 CLEMENT SMITH: I think he's got 2.9 or something.

18 MARK SWARTZ: You need to find your percent or your
19 dad's percent or whatever. So what you would do then is take
20 that percentage, just to give you an example here, it looks
21 like the...it looks like the entire tract 2C, it's .27 acres
22 in the unit. Do you see that acreage?

23 LARRY SMITH: Okay, yes.

24

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1 MARK SWARTZ: And if you divide that by 58.74,
2 you're probably going to come up with this 1.2257, okay, is
3 how they did that. You then take, if you're going to figure
4 what's going to go into this whole tract, you would take the
5 1.2257 times a one-eighth royalty, which is 12.5%, okay. So
6 multiply that out, whatever, the result is the amount of the
7 royalty or of the amount of proceeds that's going to go into
8 escrow for that whole tract. Okay, then you could do the
9 same for yourself, for example, if you take---.

10 CLEMENT SMITH: I might write that down before I
11 leave.

12 MARK SWARTZ: Well, I can tell you again before you
13 leave, too. I'll be here for a while. For example, for
14 Clement, you would take the .2043 X 12.5, or actually that
15 would be 1.25 if you convert it to a decimal, okay, and that
16 would...that would generate whatever that generates is your
17 percent of the...of the proceeds of the sale of gas. That's
18 the royalty percent. That's how you figure that.

19 CLEMENT SMITH: Would they...would they just do it
20 all like it says there, he's got the interest in the unit,
21 the whole unit---.

22 MARK SWARTZ: The whole unit.

23 CLEMENT SMITH: ---2.91, would they---.

24

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1 MARK SWARTZ: Right. They---.

2 CLEMENT SMITH: ---just cut you a check for all of
3 that.

4 MARK SWARTZ: Well, it goes to the Board.

5 CLEMENT SMITH: Right.

6 MARK SWARTZ: But, yeah, what happens is the
7 gas...this gas from this well goes in with gas from, you
8 know, tons of others.

9 CLEMENT SMITH: Right.

10 MARK SWARTZ: And it goes in general to a point of
11 sale in the Columbia system and at that point, there is a
12 sales volume and revenue generated. There's some deductions
13 because it, you know, costs money to get it from the well to
14 there. In any event, they take the sales price. They
15 basically back out some of the cost of getting it there and
16 whatever is left is the proceeds from the well. You then
17 apply these percentages, and basically it's done at a tract
18 level. So, you know, you would be using this larger
19 percentage times the net proceeds of that point.

20 LARRY SMITH: And that proceeds is what goes into
21 escrow?

22 MARK SWARTZ: What goes into escrow. So, it would
23 be one-eighth of the net proceeds would be royalty for that
24

1 well. Okay, so twelve and a half percent and then your piece
2 of that would be as expressed to you.

3 LARRY SMITH: Right.

4 MARK SWARTZ: Are you following that? You're
5 looking...you've got it.

6 CLEMENT SMITH: Right, one-eighth.

7 MARK SWARTZ: Les, do you want to add anything to
8 that or---?

9 LESLIE K. ARRINGTON: It sounds okay.

10 CLEMENT SMITH: Now---.

11 MARK SWARTZ: Do you know about Coal Creek? Have
12 they cut any split agreements with anybody?

13 LESLIE K. ARRINGTON: I don't recall Coal Creek.
14 Do you?

15 ANITA DUTY: I don't think they have.

16 LESLIE K. ARRINGTON: I don't think they have.

17 MARK SWARTZ: But you've got an address for them?

18 LESLIE K. ARRINGTON: Right.

19 LARRY SMITH: So basically...let me see if I
20 understand this correctly, basically, whatever royalties
21 there is from this well...from this particular properties is
22 going basically to Coal Creek Company?

23 MARK SWARTZ: No, no, no, no. They're not getting

24

--

1 their money either.

2 LARRY SMITH: I understand it's going to the Gas
3 and Oil Board, okay.

4 CLEMENT SMITH: It's going to CNX.

5 LESLIE K. ARRINGTON: No.

6 MARK SWARTZ: No.

7 LARRY SMITH: The escrow account goes to the Board,
8 correct?

9 CLEMENT SMITH: Right.

10 MARK SWARTZ: Right.

11 LARRY SMITH: What you're saying now is we would
12 have to strike a deal with Coal Creek Coal Company in order
13 to get a portion of these moneys---?

14 CLEMENT SMITH: Right.

15 MARK SWARTZ: Well---.

16 LARRY SMITH: ---that is in escrow?

17 MARK SWARTZ: Yes. Or wound up---.

18 LARRY SMITH: (Inaudible).

19 MARK SWARTZ: Or wind up with a judgment against
20 them resolving your title because basically, you know, you
21 either get into an argument with them or...I can't predict.
22 But if you're in an argument with them and they're saying we
23 own it and you're saying you own it, you need to resolve that
24

1 either by settling it or by litigation. One of those two
2 things have to happen for the Board to let the money out of
3 escrow.

4 LARRY SMITH: Right. But if you basically do
5 nothing, then it's going to Coal Creek---?

6 MARK SWARTZ: No, no.

7 SHARON PIGEON: No.

8 LESLIE K. ARRINGTON: No.

9 LARRY SMITH: ---the money in escrow is?

10 LESLIE K. ARRINGTON: No.

11 MARK SWARTZ: They're just where you are. If they
12 were sitting...if somebody from Coal Creek was sitting where
13 you are, I would be saying you're not going to get your
14 money. It's going to escrow. I'd be telling them exactly
15 the same thing.

16 LARRY SMITH: Right, okay. I understand it's going
17 to escrow. But if these other landowners do nothing and Coal
18 Creek Coal Company, then they eventually would get the moneys
19 from the escrow?

20 MARK SWARTZ: No. They would have to sue you and
21 win.

22 LARRY SMITH: To do that?

23 MARK SWARTZ: Oh, yeah, the same rules apply.

24

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1 LARRY SMITH: That is...that is what---.
2 MARK SWARTZ: I mean...yeah, the Board is going to
3 say, where is your...if Coal Creek came to the Board and said
4 we want the escrow, the Board is going to say the same thing
5 to them they're going to tell you and that is: Do you have a
6 deal or do you have a judgment? If they don't have either
7 one of those, the Board is going to say go home.
8 LARRY SMITH: Right. So, basically what Coal Creek
9 is doing is they're claiming ownership?
10 MARK SWARTZ: They...well, we know they have---.
11 CLEMENT SMITH: Coal rights.
12 MARK SWARTZ: ---record title to the coal.
13 LARRY SMITH: Yes, and I probably would agree with
14 that.
15 MARK SWARTZ: And we have to name them because we
16 figure it's reasonable to assume they're going to say "wait a
17 minute, you know, we've got a claim here."
18 LARRY SMITH: But these two are separate, coal
19 rights and gas and oil rights?
20 MARK SWARTZ: Yeah, this is...this is...we know
21 this is conventional oil and gas and this is conventional
22 coal and there really isn't a deed in here that we could
23 point to and say, "oh, somebody actually owns the coalbed
24

1 methane." So, there's...you know, there's going to be an
2 argument.

3 LARRY SMITH: Right. And another question I had,
4 and I guess that's for you or whoever, but whether we agree
5 to this or we don't agree to it to sign the lease or become a
6 partner or whatever the deal is, the gas is still going to be
7 extracted, if the Board agrees to this.

8 MARK SWARTZ: Yes.

9 CLEMENT SMITH: Right.

10 MARK SWARTZ: Right.

11 LARRY SMITH: That's what I was unclear on. But it
12 does not give a right to mar or deface the properties in
13 anyway except where the well site is going to be?

14 MARK SWARTZ: Right. Well, let's look at the...
15 let's look at---

16 CLEMENT SMITH: And where is the well site---?

17 MARK SWARTZ: Well, it's on the map.

18 CLEMENT SMITH: ---for Clement Smith's property?

19 MARK SWARTZ: Well, it's on the map here. So, it's
20 on...it looks like it's on...is it on Tract 1, Les?

21 LESLIE K. ARRINGTON: It's in the southeast corner,
22 and I'll have to---.

23 MARK SWARTZ: It that Tract 1?
24
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1 LESLIE K. ARRINGTON: Yeah, it's in the southeast
2 corner. It's on Coal Creek, I believe. Yes, it's on Coal
3 Creek's property.

4 MARK SWARTZ: It's over here. It's over here.

5 CLEMENT SMITH: Now, how far from this is it...
6 will be...how many acres is it from the Clement Smith
7 property?

8 LESLIE K. ARRINGTON: Well, I think the Clement
9 Smith...I will have to look and see.

10 CLEMENT SMITH: The well exactly.

11 MARK SWARTZ: So, you're over here, okay, in 2C and
12 this is an inch equals 400 feet. So, this is perhaps 500
13 feet. Les, do you got a scale?

14 CLEMENT SMITH: So, that's pretty close. So,
15 they're going to be sucking quite a bit of gas out of there.
16 The closer the well site is---

17 MARK SWARTZ: I mean, the ideal is---

18 CLEMENT SMITH: ---is what I'm saying, the more gas
19 they're going to suck out---

20 MARK SWARTZ: The idea is that the well is
21 going---

22 CLEMENT SMITH: ---off of your property.

23 MARK SWARTZ: ---that the well is going to drain
24

--

1 this whole square.

2 CLEMENT SMITH: Right, eventually.

3 MARK SWARTZ: Right.

4 CLEMENT SMITH: Right.

5 MARK SWARTZ: Right.

6 CLEMENT SMITH: But if you're 500 feet within a

7 well...well, I know a mines is just---.

8 LESLIE K. ARRINGTON: It's 700.

9 MARK SWARTZ: It's 700 feet.

10 CLEMENT SMITH: 700 feet.

11 MARK SWARTZ: Yeah.

12 CLEMENT SMITH: Well, that's right...it's on the

13 Anders property down that way, right, below the Anders

14 property?

15 LESLIE K. ARRINGTON: No, it's...it's actually

16 ...now, Anders, I'm not sure which Tract they're in. It's

17 south of the Emogene Vance, and maybe that is Anders. I

18 believe I did see---.

19 CLEMENT SMITH: I believe it is.

20 LESLIE K. ARRINGTON: Uh-huh. It's south of that,

21 but it is on the Coal Creek property.

22 CLEMENT SMITH: So, in other words, you know---.

23 MARK SWARTZ: Well, in terms of...getting back to

24

1 your question on the surface, this is where the well is going
2 to be. And do you see the...do you see the road?

3 CLEMENT SMITH: Yes.

4 MARK SWARTZ: Okay, and that's where the road is
5 going to be. So, I think your question was, are we going to
6 come across 2C to get here or do anything to 2C, the answer
7 is...to the surface, the answer is no.

8 LARRY SMITH: That...that's my question.

9 MARK SWARTZ: Right.

10 LARRY SMITH: The other is allowed to deal with it?

11 MARK SWARTZ: Right. Well---.

12 LARRY SMITH: But that was my question because some
13 of my family lives on the property.

14 MARK SWARTZ: Right.

15 LARRY SMITH: If it don't, then some of the others
16 don't...that was my question, and also kind of representing
17 them to.

18 MARK SWARTZ: Right. But that's...I mean, this
19 shows---.

20 LARRY SMITH: So, we know---.

21 MARK SWARTZ: And I think this well has been
22 drilled, hasn't it?

23 LESLIE K. ARRINGTON: Yeah.

24

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1 MARK SWARTZ: So this well is already there. So,
2 if...if your family hasn't felt any effects---.

3 LARRY SMITH: Then there won't be none.

4 MARK SWARTZ: ---it's done.

5 LARRY SMITH: Good enough. That satisfies me.

6 CLEMENT SMITH: Yeah, that's the well on the back
7 side of the mountain that you can see, right?

8 MARK SWARTZ: I don't have a typo, I don't know.
9 Les, is it?

10 LESLIE K. ARRINGTON: I don't have a typo.

11 MARK SWARTZ: Okay.

12 LARRY SMITH: That satisfies me.

13 BENNY WAMPLER: Do you have anything further, Mr.
14 Swartz?

15 MARK SWARTZ: Probably.

16

17 DIRECT EXAMINATION RESUMES

18

19 QUESTIONS BY MR. SWARTZ:

20 Q. Les, is the plan for development that's
21 disclosed here, specifically to drill a well in the drilling
22 window of this Middle Ridge unit, in your judgment, a

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1 reasonable plan to develop the coalbed methane in this 58.74
2 acre tract?

3 A. Yes, it is.

4 Q. Okay, and if you combine the leasing efforts
5 that you've undertaken so far, which you've described, would
6 this pooling order...will the correlative rights of all of
7 the people who have claims or interest in this unit be
8 protected, in your opinion?

9 A. Yes, they will.

10 MARK SWARTZ: And with that, Mr. Chairman, I think
11 that's all I have.

12 BENNY WAMPLER: Questions from members of the
13 Board?

14 (No audible response.)

15 BENNY WAMPLER: Did you gentlemen have any other
16 questions?

17 CLEMENT SMITH: Not at this present time.

18 BENNY WAMPLER: Is there a motion?

19 JIM MCINTRYE: Motion to approve.

20 BILL HARRIS: I'll second.

21 BENNY WAMPLER: Motion and second. Is there any
22 further discussion?

23 (No audible response.)
24
25

1 BENNY WAMPLER: All in favor, signify by saying
2 yes.

3 (All members indicate in the affirmative.)

4 BENNY WAMPLER: Opposed, say no.

5 (No audible response.)

6 BENNY WAMPLER: You have approval. Thank you. The
7 next item on the agenda is a petition from CNX Gas Company,
8 LLC for pooling of a coalbed methane unit BE-112. This is
9 docket number VGOB-05-0118-1384. We'd ask the parties that
10 wish to address the Board in this matter to come forward at
11 this time.

12 MARK SWARTZ: Mark Swartz and Les Arrington.

13 BENNY WAMPLER: The record will show there are no
14 others. You may proceed.

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1 LESLIE K. ARRINGTON

2 DIRECT EXAMINATION

3
4 QUESTIONS BY MR. SWARTZ:

5 Q. Les, you need to state your name again.

6 A. Leslie K. Arrington.

7 MARK SWARTZ: Mr. Chairman, I'd like to incorporate
8 his prior testimony with regard to the applicant, designated
9 operator, his employment status and the standard lease terms,
10 if I could.

11 BENNY WAMPLER: That will be...that will be
12 incorporated.

13 Q. Les, this unit is in the Middle Ridge Field?

14 A. Yes, it is.

15 Q. How many acres?

16 A. 58.74.

17 Q. And what's the development proposal?

18 A. We have 97.134% of the coal, oil and gas
19 owners' claim to coalbed methane leased. We're seeking to
20 pool 2.8657% of the coal, oil and gas owners' claim to
21 coalbed methane.

22 Q. Okay. How many wells are you proposing?

23 A. One.
24
25

1 Q. And where is it located?
2 A. Within the drilling unit.
3 Q. Has it been drilled?
4 A. Yes.
5 Q. And what's the permit number?
6 A. 6448, at a cost of \$232,987.86, to a depth
7 of 2691.
8 Q. And in this particular instance, again, we
9 have no escrow requirement?
10 A. No.
11 Q. We're going to see Mr....is it Gent?
12 A. Gent, uh-huh.
13 Q. Mr. Gent's name a lot in the applications
14 that follow. His...when I look at the title in this
15 application and the other ones, it appears to me he has an
16 undivided interest in a fairly large tract, is that correct?
17 A. That's correct, he does.
18 Q. Have you been in discussions with him?
19 A. Yes, we have.
20 Q. And can you report his preference to the
21 Board?
22 A. Yes. He has indicated to us in all of the
23 cases that he will become a carried interest operator.
24

1 BOB WILSON: Mr. Chairman.

2 BENNY WAMPLER: Mr. Wilson?

3 BOB WILSON: Let me interrupt here. I got a call
4 from Mr. Gent as well asking me to state to the Board that
5 he has no objections whatsoever to being pooled into these
6 units.

7 BENNY WAMPLER: So noted.

8 Q. Is that your understanding as well, Les?

9 A. Yes, it is.

10 Q. Is it your opinion that the development plan
11 disclosed by the application and exhibits here to drill one
12 well in this unit is a reasonable plan to develop the coalbed
13 methane?

14 A. Yes, it is.

15 Q. And if you...between your leasing, which is
16 leased virtually all the interest in this unit and pooling
17 Mr. Gent, will all the correlative rights be protected?

18 A. Yes, it will.

19 MARK SWARTZ: That's all I have, Mr. Chairman.

20 BENNY WAMPLER: Questions from members of the
21 Board?

22 (No audible response.)

23 BENNY WAMPLER: Is there a motion?

24

1 JIM McINTRYE: Motion---.
2 DENNIS GARBIS: Motion to approve.
3 BENNY WAMPLER: Motion to approve.
4 JIM McINTRYE: Second.
5 BENNY WAMPLER: Motion is seconded. Any further
6 discussion?
7 (No audible response.)
8 BENNY WAMPLER: All in favor, signify by saying
9 yes.
10 (All members signify in the affirmative.)
11 BENNY WAMPLER: Opposed, say no.
12 (No audible response.)
13 BENNY WAMPLER: You have approval. Thank you. The
14 next item on the agenda is a petition from CNX Gas Company,
15 LLC for pooling of a coalbed methane unit BE-113, docket
16 number VGOB-05-0118-1385. We'd ask the parties that wish to
17 address the Board in this matter to come forward at this
18 time.
19 MARK SWARTZ: Mark Swartz and Les Arrington.
20 BENNY WAMPLER: The record will show there are no
21 others. You may proceed.

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1 MARK SWARTZ: Mr. Chairman, if you would bear with
2 me for a moment. If you look at docket items, I believe you
3 just called number five.

4 BENNY WAMPLER: Right.

5 MARK SWARTZ: If you look at six, seven, eight,
6 nine, ten, eleven...through eleven. So if you go up through
7 eleven, each one of the following pooling applications
8 through and including docket number eleven only concern Mr.
9 Gent. I think you might want to call those together and we
10 could do them all literally at one---.

11 BENNY WAMPLER: Sure. I'll go ahead and call the
12 others. This is for pooling of coalbed methane unit BF-112,
13 VGOB-05-0118-1386; next item then would be BF-113, the last
14 four digits are the only thing that changes, 1387, docket
15 number; the next item is for unit BF-114, last four digits of
16 the docket number 1388; next item is unit BG-112, last four
17 digits 1389; the next item is BH-112, last four digits, 1390;
18 and then finally BI-112, last four digits 1391. We'd ask the
19 parties that wish to address the Board in these matters to
20 come forward at this time.

21 MARK SWARTZ: Mark Swartz and Les Arrington.

22 BENNY WAMPLER: The record will show there are no
23 others. You may proceed.

24

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1 MARK SWARTZ: Mr. Chairman, I would like to
2 incorporate into each of these, Mr. Arrington's testimony
3 with regard to his employment, with regard to the applicant,
4 with regard to the qualifications and the designated
5 operator, and with regard to his discussions with Mr. Gent.
6 I would also like to incorporate Mr. Wilson's report with
7 regard to his discussions with Mr. Gent. I'd also like to
8 incorporate Mr. Arrington's testimony concerning lease terms.
9 BENNY WAMPLER: That will be incorporated.

10

11 LESLIE K. ARRINGTON

12

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. SWARTZ:

15 Q. Mr. Arrington, let's sort of walk through
16 these one at a time just to cover the percentage of interest
17 that we're pooling because I think that's really all we need
18 to really address into specifics here.

19 A. Okay.

20 Q. Have you reported in the spreadsheet that
21 you have passed out to the Board today, the interest that
22 you're seeking to pool in each of these units with regard to
23 Mr. Gent?

24

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1 A. Yes, we have.

2 Q. Okay. And could you get that in the record
3 for us, tell us what that would be.

4 A. In each unit, beginning with BE-113, we're
5 seeking to pool 4.2088% of the coal, oil and gas owner's
6 claim to coalbed methane. In unit BF-112, we're seeking to
7 pool 5.5556% of the coal, oil and gas owners' claim to
8 coalbed. In unit BF-113, we're seeking to pool 5.5556% of
9 the coal, oil and gas owner's claim to coalbed methane. BF-
10 114, we're seeking to pool 5.1205% of the coal, oil and gas
11 owners' claim to coalbed methane. In BG-112, we're seeking
12 to pool 5.5556% of the coal and gas owners' claim to coalbed
13 methane. In unit BH-112, we're seeking to pool 3.7822% of
14 the coal, oil and gas owners' claim to coalbed methane. In
15 unit BI-112, we're seeking to pool 0.7547% of the coal, oil
16 and gas owners' claim to coalbed methane.

17 Q. Okay, in each of these units, it looks like
18 there's already a well permit issued?

19 A. That's correct.

20 Q. And it look like then you've got a drilling
21 depth and you've got a well cost, correct?

22 A. We do.

23 Q. You need to report those numbers for us so
24

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1 that those go into the record as well?

2 A. Okay. For unit BE-113, the estimate...okay,
3 unit BE-113, the estimated cost is \$231,897.43. Estimated
4 depth or the depth is 2,586 feet. Permit number is 6443.
5 Okay, BF-112, the estimated cost is \$231,518.86. The depth
6 is 2,687 feet. The permit number is 6444. BF-113, the cost
7 is \$227,424.03. The depth is 2,680 feet. The permit number
8 is 6442. BF-114 is \$239,674.64. The depth is 2,989 feet.
9 The permit number is 6441. BG-112 is \$227,205.38. The depth
10 is 2,691 feet. The permit number is 6447. BH-112, estimated
11 cost is \$232,491.16. The depth is 2,717 feet. The permit
12 number is 6440. BI-112 is \$248,426.67 to a depth of 2,969
13 feet. The permit number is 6446.

14 Q. Okay, with regard to each of these
15 applications, did you mail to Mr. Gent?

16 A. Yes, we did.

17 Q. Did you also publish?

18 A. We did. In the Bluefield Daily Telegraph.

19 Q. Okay. And have you filed proofs of
20 publication and proofs of mailing with Mr. Wilson?

21 A. Yes, we have.

22 Q. In all of these units, it looks like there
23 is no escrow requirement?

24

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1 A. That's correct, there is not.

2 Q. So you'll be able to pay Mr. Gent directly?

3 A. Correct.

4 Q. And lastly, with regard to each of these
5 units, is it your opinion that the development plan, which
6 would be to drill one frac well in each unit, is a reasonable
7 plan to produce the coalbed methane from within and under
8 these units?

9 A. Yes, it is.

10 Q. And if we couple a Board order pooling Mr.
11 Gent, in the interest that you've described to the Board, and
12 you couple that with your leasing efforts, is it your opinion
13 that all of the correlative rights of all of the owners and
14 claimants would be protected?

15 A. Yes, it would be.

16 MARK SWARTZ: That's all I have, Mr. Chairman.

17 BENNY WAMPLER: Questions from members of the
18 Board?

19 (No audible response.)

20 BENNY WAMPLER: In all cases, are these wells in
21 the drilling window?

22 LESLIE K. ARRINGTON: No, sir. Let's see---.

1 MARK SWARTZ: There's one that's not. Which one is
2 it?
3 LESLIE K. ARRINGTON: No, but that's K-34
4 MARK SWARTZ: Is it?
5 LESLIE K. ARRINGTON: All of these are.
6 MARK SWARTZ: The one that's not is K-34 that you
7 haven't called yet, sorry.
8 BENNY WAMPLER: I just wanted to get that covered.
9 MARK SWARTZ: No problem.
10 BENNY WAMPLER: Other questions from members of the
11 Board?
12 (No audible response.)
13 BENNY WAMPLER: Is there a motion?
14 JIM McINTYRE AND DENNIS GARBIS: Motion to approve.
15 BENNY WAMPLER: Motion to approve. Is there a
16 second?
17 JIM McINTYRE: Second.
18 BENNY WAMPLER: Second. Any further discussion?
19 (No audible response.)
20 BENNY WAMPLER: All in favor, signify by saying
21 yes.
22 (All members signify in the affirmative.)
23 BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. The next item on the agenda is a petition from CNX Gas Company, LLC for pooling of a coalbed methane unit BI-117. This is docket number VGOB-05-0118-1392. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

BENNY WAMPLER: The record will show there are no others. You may proceed.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, you need to state your name for us.

A. Leslie K. Arrington.

MARK SWARTZ: Mr. Chairman, I'd like to incorporate Mr. Arrington's testimony with regard to his employment, the applicant, the proposed designated operator and the standard lease terms.

BENNY WAMPLER: That will be incorporated.

Q. What is...is this a Middle Ridge unit, Les?

1 A. Yes, it is.
2 Q. Okay. And it's 58.74 acres?
3 A. Yes, it is.
4 Q. The well is in the drilling window?
5 A. Yes.
6 Q. Has the well been drilled?
7 A. Yes, it has.
8 Q. Why don't you tell us the well location?
9 A. The well estimated cost is \$222,586.03 at
10 the depth of 2320. The permit number is incorrectly shown on
11 the spreadsheet. It's actually 6445.
12 Q. What did you do to notify the respondents of
13 this hearing?
14 A. We mailed certified mail, return receipt
15 December the 10th, 2004. It was published in the Bluefield
16 Daily Telegraph on December the 20th, 2004.
17 Q. Do you want to add or subtract any
18 respondents today?
19 A. No.
20 Q. Did you file your proofs of publication and
21 proofs of mailing with Mr. Wilson?
22 A. Yes.
23 Q. What...what interest have you acquired and
24

1 what are you seeking to pool?

2 A. We have acquired 95.1068% of the coal, oil
3 and gas owners' claim to coalbed methane. We're seeking to
4 pool 4.8932% of the coal, oil and gas owners' claim to
5 coalbed methane.

6 Q. And all the people that you're seeking to
7 pool are in Tract 11, if I'm not mistaken?

8 A. That's correct.

9 Q. And there's an Exhibit E that you've
10 included and there's an escrow requirement for Tract 11
11 because of conflicts---?

12 A. That's correct.

13 Q. ---between the coal, oil and gas, right?

14 A. Uh-huh.

15 Q. And there's also a title issue in Tract
16 11---?

17 A. It is.

18 Q. ---which would be another reason to escrow?

19 A. Yes.

20 Q. Is it your opinion that the development
21 plan, which would be to drill one frac well in the drilling
22 window here, is a reasonable plan to develop the coalbed
23 methane under this Middle Ridge unit?

24

--

1 A. Yes, it is.

2 Q. And if you combine your leasing efforts with
3 a pooling order pooling the respondents identified, would
4 that serve to protect the correlative rights of all of the
5 owners and claimants?

6 A. Yes, it will.

7 MARK SWARTZ: That's all I have, Mr. Chairman.

8 BENNY WAMPLER: Questions from members of the
9 Board?

10 BILL HARRIS: Mr. Chairman.

11 BENNY WAMPLER: Mr. Harris.

12 BILL HARRIS: Just a very quick question. Mr.
13 Arrington, just out of curiosity, I notice this well is very,
14 very close to the upper edge. Is there a reason... and it is
15 within the window. So, I mean, legally I'm sure we're okay.
16 I just wondered out of curiosity why it was in that upper
17 corner like that. Is it just---?

18 LESLIE K. ARRINGTON: This one, if I recall
19 correctly since I don't have topo map with me---.

20 BILL HARRIS: Yes.

21 LESLIE K. ARRINGTON: We're going just...this is
22 the way you go up that, I'll call it valley or stream, and
23 that was the best location we could...we could up with there.

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1 BILL HARRIS: I was just curious. There's nothing,
2 you know...since that is a proper location within the window,
3 I was just curious about that. I do have another question
4 about Tract 11 down at the bottom. That appears to be
5 outside of our area. Is that...or am I just missing
6 something there.

7 LESLIE K. ARRINGTON: It's point...you can just
8 barely can tell---.

9 BILL HARRIS: Ten and eleven.

10 LESLIE K. ARRINGTON: Ten and eleven just barely
11 clip across---.

12 BILL HARRIS: Over the map, yeah.

13 LESLIE K. ARRINGTON: ---the line.

14 BILL HARRIS: Okay.

15 BENNY WAMPLER: Any other questions?
16 (No audible response.)

17 BENNY WAMPLER: Do you have anything further, Mr.
18 Swartz?

19 MARK SWARTZ: No, I don't.

20 BENNY WAMPLER: Is there a motion?

21 JIM MCINTYRE: Motion to approve.

22 DENNIS GARBIS: Second.

1 BENNY WAMPLER: Motion and second. Any further
2 discussion?

3 (No audible response.)

4 BENNY WAMPLER: All in favor, signify by saying
5 yes.

6 (All members signify in the affirmative.)

7 BENNY WAMPLER: Opposed, say no.

8 (No audible response.)

9 BENNY WAMPLER: You have approval. The next item
10 on the agenda is a petition from CNX Gas Company, LLC for
11 pooling of a coalbed methane unit K-34, docket number VGOB-
12 05-0118-1393. We'd ask the parties that wish to address the
13 Board in this matter to come forward at this time.

14 MARK SWARTZ: Mark Swartz and Les Arrington.

15 BENNY WAMPLER: The record will show no others.
16 You may proceed.

17 MARK SWARTZ: Mr. Chairman, I'd like to incorporate
18 Mr. Arrington's testimony with regard to his employment, with
19 regard to applicant, with regard to the proposed designated
20 operator, and with regard to the standard lease terms.

21 BENNY WAMPLER: That will be incorporated.

22

23

24

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1 LESLIE K. ARRINGTON

2
3 DIRECT EXAMINATION

4 QUESTIONS BY MR. SWARTZ:

5 Q. Les, this is an Oakwood unit, right?

6 A. Yes, it is.

7 Q. Okay. And we need to file a revised plat
8 with the...it shows an 80 acre unit, but it calls it a Middle
9 Ridge I in the legion on the plat. So we need to...we need
10 to file a revised exhibit and we will do that. The only
11 thing we need to change is Middle Ridge to Oakwood, is that
12 correct?

13 A. Yes.

14 Q. And is this indeed an 80 acre unit?

15 A. Yes, it is.

16 Q. The...have you listed the folks that you
17 need to pool in both the notice and the Exhibit B-3?

18 A. Yes, we have.

19 Q. And what did you do to notify them of the
20 hearing?

21 A. We mailed by certified mail December the
22 10th, 2004, published in the Bluefield Daily Telegraph on
23 December the 20th of 2004.

1 Q. And did you file proofs of publication and
2 mailing with Mr. Wilson?

3 A. Yes, we have.

4 Q. And these are trustees apparently? That's
5 what you're showing on B-3?

6 A. Yes.

7 Q. Okay, so that's why you only need to mail to
8 one person?

9 A. Yes.

10 Q. Okay. What is...what is the interest you're
11 seeking to pool?

12 A. We have leased in this unit 99.9375% of the
13 coal, oil and gas owners' claim to coalbed methane. We're
14 seeking to pool 0.0625% of the coal owners'...coal, oil and
15 gas owners' claim to coalbed methane.

16 Q. And that's the interest that Clark Gale Ward
17 is the trustee for?

18 A. Yes.

19 Q. Do you want to add anybody or subtract
20 anybody as a respondent today?

21 A. No.

22 Q. The...it looks like this well is probably
23 drilled?

24

--

1 A. No, it is not.
2 Q. Okay, but it's permitted?
3 A. Yes.
4 Q. What's the permit number?
5 A. 6450.
6 Q. And your estimate with regard to costs and
7 with regard to depth are?
8 A. \$204,561.21...24 to a depth of 1,517 feet.
9 Q. And this is...this actually is the one well
10 today that is not in the drilling window?
11 A. That's correct.
12 Q. And is it to be located where it's indicated
13 on the plat?
14 A. Yes, it is. This location is actually due
15 to an...it's within the plus ten year mine plan of the
16 Buchanan Mine.
17 Q. Okay. So this is dictated by a mine plan?
18 A. Yes, it is.
19 Q. And this was a situation where the director
20 had authority under the Oakwood rules to grant the exception?
21 A. That's correct.
22 Q. Okay. And it looks like Mr. Ward and
23 his...and the folks that he's trustee for, that they actually
24

1 have a fee interest here?

2 A. Yes.

3 Q. So, there's no escrow requirement for their
4 interest?

5 A. That's correct.

6 Q. Is it your opinion that the plan to drill a
7 frac well in this 80 acre unit is a reasonable plan to
8 develop the resources?

9 A. Yes, it is.

10 Q. And is it...and is the location again
11 reasonable in light of the fact that it's driven by a mine
12 plan?

13 A. Yes.

14 Q. Okay. And lastly, if we combine your
15 pooling activities with the pooling order that you're seeking
16 here, would the correlative rights of all owners and
17 claimants be protected?

18 A. Yes, they will.

19 MARK SWARTZ: That's all I have, Mr. Chairman.

20 BENNY WAMPLER: Questions from members of the
21 Board?

22 BILL HARRIS: Mr. Chairman.

23 BENNY WAMPLER: Mr. Harris.

24

1 BILL HARRIS: Just a question about the Cabot Oil,
2 that GPA3, would you tell us about that?
3 LESLIE K. ARRINGTON: That well is not...it's
4 abandoned, I believe.
5 BILL HARRIS: Okay. Is there something in that
6 notation that tells us that?
7 LESLIE K. ARRINGTON: No.
8 BILL HARRIS: But it is abandoned?
9 LESLIE K. ARRINGTON: Uh-huh. I think it is. I'd
10 just have to go back to the record, but I think that well is
11 abandoned.
12 BILL HARRIS: Was that a ventilation drilling or is
13 that---?
14 LESLIE K. ARRINGTON: No, sir, it was a
15 conventional well.
16 BILL HARRIS: Conventional?
17 LESLIE K. ARRINGTON: Uh-huh.
18 BILL HARRIS: Thank you.
19 BENNY WAMPLER: Other questions?
20 (No audible response.)
21 BENNY WAMPLER: Do you have anything further, Mr.
22 Swartz?
23 MARK SWARTZ: No, I do not.
24

1 BENNY WAMPLER: Is there a motion?
2 BILL HARRIS: Motion for approval.
3 BENNY WAMPLER: Motion for approval. Is there a
4 second?
5 JIM McINTRYE: Second.
6 BENNY WAMPLER: Second. Any further discussion?
7 (No audible response.)
8 BENNY WAMPLER: All in favor, signify by saying
9 yes.
10 (All members signify in the affirmative.)
11 BENNY WAMPLER: Opposed, say no.
12 (No audible response.)
13 BENNY WAMPLER: You have approval. Mr. Swartz, is
14 your last one number eighteen on our agenda?
15 MARK SWARTZ: Yes.
16 BENNY WAMPLER: Let me just go ahead and get that.
17 MARK SWARTZ: That would be great if we could do
18 that. I mean, we're going to have to hang around for the
19 disbursements.
20 BENNY WAMPLER: I understand.
21 MARK SWARTZ: But the last thing that we have is
22 that.
23 BENNY WAMPLER: Let's go ahead and do that.

24

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1 MARK SWARTZ: Okay.

2 BENNY WAMPLER: A petition from CNX Gas Company,
3 LLC for a modification of Oakwood I Field Rules to allow for
4 drilling of two frac wells in each of the 100 units described
5 as Y-43, Y-49, Z-43 to Z-49, AA-43 to AA-49, BB-43 to BB-49,
6 CC-32 to CC-49, DD-32 to DD-49, EE-32 to EE-49, FF-32 to FF-
7 49. This is docket number VGOB-93-0216-0325-02. We'd ask
8 the parties that wish to address the Board in this matter to
9 come forward at this time.

10 MARK SWARTZ: Mark Swartz and Les Arrington...Rick,
11 you need to come up, and Rick Toothman.

12 MARK TUGGLE: And Mark Tuggle. I represent Dollie
13 S. Belcher, Paul Richardson, Shelby Ruth Richardson, Leonard
14 Richardson, Doris Dye, and Ruby Ball Lawson.

15 BENNY WAMPLER: Okay, thank you.

16 (Anita Duty passes out exhibits.)

17 MARK SWARTZ: You need to swear one more person
18 here.

19 COURT REPORTER: Do I need to swear him as well?

20 (No audible response.)

21 (Mark Tuggle and Rick Toothman are duly sworn.)

22 MARK SWARTZ: Mr. Chairman, we were here a while
23 ago seeking authority from the Board to do some, what I would
24

1 call some, infill drilling, which was to drill additional
2 wells in an area of the Oakwood Field. There was testimony
3 presented at that time with regard to our engineering
4 reasons. Rick was here then and he's back here today. The
5 area that we initially came to the Board and discussed with
6 regard to infill drilling is the area that's in yellow on the
7 map that I've passed out today. I'm not sure, I'm thinking
8 it was about a year ago.

9 RICK TOOTHMAN: I'd say...these wells even came on
10 that we did drill somewhere between August or so of '03.
11 So---.

12 MARK SWARTZ: Okay.

13 RICK TOOTHMAN: ---it would have been just prior to
14 that.

15 BENNY WAMPLER: March 2003 is the information I
16 have here.

17 MARK SWARTZ: And so that's...you know, that was
18 the first try, or go, at validating the theories that we felt
19 would be additional interference, would it actually increase
20 production. We had some data at that time. Now, what we're
21 back here on today is...is to...it's almost like a polka-
22 dotted blue area, which butts up against the east of the
23 yellow where we had permission to do infill drilling and goes
24 east from there and then doglegs a bit up to the...up to the

--

1 north. So, that's what we have in mind. We started with the
2 yellow. It's working. We would now like to expand to the
3 east and somewhat to the north into the area that's sort of
4 the polka-dot blue area and that's just to set the foundation
5 for what we're...what we're proposing here. Let me ask Les a
6 couple of questions first.

7

8

LESLIE K. ARRINGTON

9

10

DIRECT EXAMINATION

11

12 QUESTIONS BY MR. SWARTZ:

13 Q. Les, have you sort of mapped out the
14 boundaries of the area here?

15 A. Yes, we have.

16 Q. And have you tried to follow any existing
17 lines?

18 A. We just followed existing 80 acre unit
19 lines. We, along with this application in two maybe three
20 months from now, we're going to come back and go from this
21 point up through the white area.

22 Q. Well, when you say this point, you need to
23 hold the map up so you can show the Board.

24

--

1 A. Okay, I'm sorry. Yeah, on the blue area, if
2 you'll look, in a couple of months we'll come back and we're
3 going to request the remainder of the area up to the West
4 Virginia line basically.

5 Q. It looks like the additional area...let's
6 keep this map up so people can see, it looks like the
7 additional area that you're talking about perhaps coming
8 back, comes around this shaded area.

9 A. Yes.

10 Q. Okay. What is represented by that shaded
11 area?

12 A. That's our existing mine plan for the
13 Buchanan No. 1 mine. You'll notice that you'll see areas
14 already infill drilled there according to the mine plan.

15 Q. And that would be where you've got the dots
16 fairly close together?

17 A. Yes, it is.

18 Q. Okay. So, basically, what you're doing here
19 is this infill drilling, or increase density drilling, is
20 skirting around the boundaries of the mine plan?

21 A. Yes, it is.

22 Q. Okay. And is it...the lines that we show at
23 the bottom of the proposed extension of the infill drilling,

24

--

1 is that the boundary between the Middle Ridge and the
2 Oakwood?

3 A. Yes, it is.

4 Q. So, that's an existing boundary?

5 A. Yes.

6 Q. And if we go to the far east, is that
7 boundary a grid line of the an 80 acre---?

8 A. Yes, it is.

9 Q. Okay. And is the same true with the north?

10 A. Yes.

11 Q. So, basically, you've tried to follow the
12 existing mapping, we don't have to re-invent the wheel?

13 A. Right.

14 Q. And we could just accurately describe this
15 by simply identifying the Oakwood units that are contained
16 within it?

17 A. Correct.

18 Q. And have you done that, actually, in your
19 application?

20 A. I think we did.

21 Q. The different colored dots, we've got orange
22 dots and blue dots, which I'm assuming depict wells.

23 A. Yes.

24

1 Q. What's...what's the difference?
2 A. That would be something Mr. Toothman
3 would---.
4 Q. But I should talk to Rick about that?
5 A. Yes, yes.
6 Q. Okay, I will do that. Is there a reason why
7 the boundaries of the additional pieces that come around the
8 rest of the mine have the odd shapes that you've given?
9 A. Are you speaking to these?
10 Q. Yes.
11 A. Those lines, for the initially drilling
12 areas those were how we laid out our initial drilling
13 patterns back some years ago and that was just representative
14 of what we would have called a certain compressor location
15 and it would have included the units within that boundary.
16 Q. Okay. So that was driven by a
17 compressor---?
18 A. Yes.
19 Q. ---or a surface facilities as opposed to
20 something underground?
21 A. That's correct.
22 Q. Okay.
23
24

RICK TOOTHMAN

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Rick, you're under oath, but I need to get a little information from you. State your name for us.

A. Rick Toothman.

Q. Who do you work for?

A. CNX Gas.

Q. What do you do for them?

A. I'm the engineering manager.

Q. Okay. And you've testified before the Board before?

A. Yes, I have.

Q. Your educational background just in a nutshell?

A. I have a petroleum engineering B. S. Degree.

Q. Okay. And how long have you been working on this coalbed methane project and other coalbed methane projects for Consol?

A. Well, for Consol, Conoco, total for about 20 years.

Q. Okay. The...have you and Mr. Arrington

1 worked together with regard to this proposed extension?

2 A. Yes, we have.

3 Q. What has your role been?

4 A. Basically, to support data to justify the

5 economics to determine whether or not it was feasible to

6 infill drill.

7 Q. Okay. When you were here last, you had some

8 data, which we talked about in relation to the proposed area

9 that's depicted in yellow, correct?

10 A. That's correct.

11 Q. And it looks like you've reported some

12 additional data over the mine area?

13 A. Yeah, that data would support also what was

14 previous reported, but it has been updated.

15 Q. Okay. Could you discuss the...and sort

16 of...I think probably...I think the Board probably remembers,

17 but could you kind of refresh them on the concept and then

18 bring them up to date with regard to the additional data that

19 you've been able to accumulate?

20 A. Yeah, basically the way this program

21 involved was that within the Oakwood Field Rules were set up

22 on 80 acre spacing, but anything that falls within the mine

23 plan, we're allowed to reduce that spacing to whatever is

24

1 appropriate to improve the safety and productivity of the
2 mines. So, some of the first areas that...if you'll look at
3 the titles on the upper part of the map, what I call the
4 orange area infill and the purple area infill. We had some
5 additional...or excuse me, some initial 80 acre spaced wells.
6 We decided at a later date to go ahead and place some
7 additional wells in those units. What you're looking at is
8 kind of a head to head comparison of the initial well
9 response to the infill well response. The important things
10 to note here, and I guess in my opinion, is that you can see,
11 I'll go the orange area first, but you can see the initial
12 response of the well, which is the greyed shaded curve.
13 Peaked around 1800 mcf per day. If you look at the well
14 count, the well count comparison will be the same. So, that
15 was for eleven wells. Then at some date later, which was
16 about two years later, we did the infill wells, which had a
17 slightly higher peak, pretty similar, with the same type of
18 character, the curve. But if you look at them right now,
19 there has been a slight increase in the initial well that was
20 there. There has been a slight reduction there at the end.
21 I think that's just due to some well maintenance issues that
22 we need to discover and address.

23 If you go to the purple area, for instance,
24

1 you'll...it's a little more traumatic there. The response of
2 the infill well had a higher peak rate than the original
3 well. If you look just slightly after that well came on, the
4 original wells increased from an average production to around
5 2500 a day to over 3000 a day. The way it works in coalbed
6 methane is that essentially it's reversed from conventional
7 wells. Interference...gas...gas is stored under pressure.
8 As you reduce the average reservoir pressure, you'll release
9 more methane. That, in essence, is what we believe is taking
10 place. The additional well bore is in there. It helps to
11 reduce that pressure at a quicker rate to allow more gas to
12 be released and captured. For Consol, as a whole, it's kind
13 of a win/win. From the gas side, we're capturing or
14 recovering a larger percentage of gas and marketing that.
15 From a mine prospective within the mine area, there's less
16 gas to deal with, so it should improve mine safety and
17 productivity. That was where we began and why we began.

18 Then we felt from a straight economic standpoint
19 that we should address and take a look at the units that fall
20 outside of our mine plan to basically do the same thing to
21 improve the recovery factors and/or the recoverable resource
22 that's available to us. It's very difficult to do it low
23 permeabilities in some of these areas without additional
24

1 drilling. From an economic standpoint, when we addressed the
2 Board, we had some simulation runs and some computer work
3 forecasting the economics there and we show that it was very
4 economic and gas prices in the \$3.50 range and as the Board
5 is very aware, the gas prices are much higher than that at
6 the present time, which is just going to drive that analysis
7 even further from an economic standpoint.

8 Q. Essentially in terms of well spacing and
9 infill drilling, are you...are you just asking the Board to
10 allow you to implement the terms of the order that we've been
11 using the yellow and use the same plan and process in the
12 blue?

13 A. That is correct.

14 Q. Okay. So, we're not...we're not making some
15 kind of shift in terms of how we would approach the infill
16 drilling. We feel that it works as it was designed in the
17 yellow and we just want to move into the blue area.

18 A. That's right.

19 Q. Okay.

20 A. The only additional thing that I didn't
21 touch, Mark, was the sense...the time that we were here in
22 the yellow, we do have a little bit of date from that yellow
23 shaded are where we've got the spacing exemption.

24

--

1 Q. Okay, and are those the data that's reported
2 below here?

3 A. That is...that is the red curve that you see
4 for that particular unit.

5 Q. Okay, let's talk about that for a minute.

6 A. Okay.

7 Q. Go ahead.

8 A. We...at the current time, we've placed eight
9 wells in the unit and those eight wells are about 1100 mcf a
10 day or an average of about 130 mcf a day at the present time.

11 That's a pretty short period of time that you're looking at
12 the production if given the...given, I guess time frame. But
13 you can see at a 130 a day they're economic wells. Then we
14 included just a small area where we've kind done within the
15 mine plan a very small infill to see what response we would
16 anticipate from this area over here. Once again, the infill
17 wells that we're looking at right there, there's about seven
18 wells on a head to head comparison, they have out performed
19 the initial wells there and continue to do so at the present
20 time.

21 Q. Okay, just...just to sort of...I mean, it
22 looks like two things arguably are happening, and this is
23 just kind of a refresher as to what we talk about the last
24 time, but if we look at the...at the...at this chart, which

--

1 addresses the yellow area, okay, as I look at it, it looks
2 like two things occur with the interference wells that your
3 new wells, your infill wells, reach higher production much
4 sooner. Is that...is that a...I mean, that's what it looks
5 like. Is that true?

6 A. That's...well, that's what we...that's what
7 we believe, yes.

8 Q. Okay. So, if we look at the production
9 levels after drilling, it looks like with the initial set of
10 wells, it took a considerable period of time for them to hit
11 the production max?

12 A. Well, in this case, Mark, the only thing
13 you've got to keep in account is that the wells came on there
14 were fewer wells at this period of time until you get over
15 here to do the head to head comparisons.

16 Q. Okay, okay.

17 A. So, that's part of this total production is
18 just due to only a few wells being on.

19 Q. Okay. And then...and then it also, in some
20 of these charts, it appears to me that the infill wells
21 actually have an effect on the preexisting wells?

22 A. That's correct.

23 Q. And that effect would be what?

24

--

1 A. That effect, I think, is going to be, and
2 what we've seen in some areas, is that you may actually
3 increase the production from those initial wells. If you
4 will, you would be accelerating the production. I think
5 there's two effects. You'll get accelerated production and
6 you'll also get incremental production because the average
7 reservoir pressure with additional wells in there is going to
8 be a lower reservoir pressure and at low pressures is where a
9 lot of gas is stored. So, you're going to release more gas.
10 But because of the interference that takes place, you're
11 going to accelerate and increase recovery.

12 Q. And the difference between a conventional
13 reservoir and a CBM, or a difference, is that the desorption
14 from the coal, the gas from the coal, is depending, in
15 apparently a significant way, on the reservoir production?

16 A. That's correct.

17 Q. And the lower the pressure, the quicker it
18 desorbs and the more opportunity there is to capture the gas?

19 A. That's correct.

20 MARK SWARTZ: I think that's all I have on direct
21 of this witness. I'll certainly turn him over to the Board.

22 BENNY WAMPLER: Questions from members of the
23 Board?

24 (Mr. Garbis indicates he wishes to speak.)

--

1 BENNY WAMPLER: Mr. Garbis?

2 DENNIS GARBIS: Yes. On the example that you gave,
3 I guess, in AV-114, it looks like the grey graph, it looks
4 like it is trending downward, but the orange is going up and
5 then it begins...it looks like it's trending downward as
6 well. But I understand that's probably over---.

7 RICK TOOTHMAN: Well, if you look at---.

8 DENNIS GARBIS: ---probably a short increment of
9 time.

10 RICK TOOTHMAN: And I took a look at that as well.
11 But if you look back at January of '01, you'll see a pretty
12 significant downward trend and then it came back up and then
13 it started downward trending again. Part of those, I'll say
14 subtle trends, are the fact that it's the time of the year
15 that it is and the fact that we operate so many wells. We
16 identify...this particular area does have some scaling
17 problems and some operational problems. It's a matter of
18 when we can get in and service wells and rigs is the function
19 there. I think that's...that's the main driving force behind
20 that.

21 DENNIS GARBIS: So, if you were to summarize this
22 by saying, the gray area it might average, you know, X
23 percentage or X volume over a period of time and the orange
24

1 would be Y. So now you've got X plus Y. So now you have
2 some new...new volume Z. What...could you put like numbers
3 on that? I mean, is it...is it one plus one there? Are we
4 doubling the volume or are we...what percentage increment are
5 we talking about?

6 RICK TOOTHMAN: You, obviously, can't...if you take
7 a given unit, an 80 acre unit, if you place two wells in
8 there, you're not going to double the volume. Three wells
9 aren't going to triple them. I mean, there's a fixed amount
10 of gas that's in there.

11 DENNIS GARBIS: And that's what I'm trying to see.

12 RICK TOOTHMAN: I think that's where you're getting
13 at.

14 DENNIS GARBIS: Right. What percent decrease?

15 RICK TOOTHMAN: I think what you'll actually see,
16 now keep in mind, that's where you'll get an acceleration.
17 So, you've got the time value in mind. So, you'll get that
18 gas quicker. The incremental return, I don't have that in
19 front of me. But if you'll allow me to make a wild guess,
20 I'll tell you we're probably in the range of a 50% increase
21 in a recovery. You're going to go somewhere from probably a
22 30% to a 45% recovery of the resources that's in place with
23 the infill drilling.

24

--

1 DENNIS GARBIS: That's what..that was going to be
2 my next question. Over...ultimately over a life of the
3 well...over that 80 acre plot, what will we additionally...
4 can expect to be withdrawn from that area? In other words, I
5 think you might have given the answer there.

6 RICK TOOTHMAN: Yeah, keep in mind, I don't have
7 that simulation results in front of me.

8 DENNIS GARBIS: Right.

9 RICK TOOTHMAN: So, I'm only speculating. But
10 that's typically the way...the way it works. We had some
11 simulation runs that we put before the Board at an earlier
12 date that does document some of that.

13 DENNIS GARBIS: Does directional drilling...I know
14 we had mentioned this, and we've given approval to do that on
15 a couple of areas, was this a consideration? Can you
16 potentially do that? Does it lend itself?

17 RICK TOOTHMAN: I'm going to answer that yes and no
18 and I'll tell you why. In this particular area, the
19 resources is contained within multiple coal seams.

20 Directional drilling you're focusing on one of those coal
21 seams. So, if you implement directional drilling, then what
22 happens is that you'll get a higher recovery efficiency for
23 that particular zone that you're targeting, but you won't get
24

1 any contribution from the other seams, which would be a lost
2 resource. Most companies are focusing on areas where they'll
3 do a combination of both, where they'll vertically drill and
4 frac and try to capture from all of those and then maybe
5 increase the recovery efficiency of a particular seam; or
6 they'll focus only on areas where the contribution from, I'll
7 say the overlying seams are thin and there's not a lot of gas
8 that you can extract and they'll focus and target on one
9 particular thick continuous seam. In this particular area,
10 there are some coals that you could horizontal drill, but we
11 would be bypassing a tremendous reserve if we didn't take the
12 approach that we're taking.

13 DENNIS GARBIS: Then, again, I think the right
14 answer is you have to see what the circumstances are, then
15 maybe one or both combine them.

16 RICK TOOTHMAN: That's correct.

17 DENNIS GARBIS: And you would have to optimize
18 that. So, I guess, finally, the last question is if that's
19 the case, is the 80 acre is that...what you're telling me
20 there that's not efficient...80 acres is not efficient?

21 RICK TOOTHMAN: That's correct. I don't believe
22 that it is at this given time, but it's not uncommon any gas
23 play that as you get more data...I guess, I'm not questioning
24

1 the fact that it was set up on 80s to begin with. I've
2 delved in some areas where a 320 acre spacing unit is where
3 they started at and then they went to infills on 160s and
4 went to infills on 80s at some point in time. As you get
5 more data that supports that, then that's generally the way
6 the field rules are modified. But at the current time, yeah,
7 I believe that...and our...our data suggests that a 40 to 60
8 acre unit appears to be the best, the most operative.

9 DENNIS GARBIS: Yeah, we on the Board, we need to
10 be aware of that so if we need to make some adjustments or
11 recommendations, then we need to be agreeable to that, which
12 I think we would be. That's all the questions I have, Mr.
13 Chairman.

14 BENNY WAMPLER: Thank you. Any other questions
15 from members of the Board?

16 (No audible response.)

17 BENNY WAMPLER: Are the outlines that you have to
18 the east, I guess, are they plans for expansion of Buch 1?
19 In other words, are there any attempts here to look to the
20 future and be degasing ahead, or is this just pure exploiting
21 of the resource, I guess, for lack of a better word?

22 LESLIE K. ARRINGTON: I believe it's going to be
23 both. Actually our mine...our Buchanan No. 1 mine plan, if
24

1 it goes much further to the east of the gray shaded, it
2 wouldn't be more than another unit, 80 acre unit, to the
3 east.

4 BENNY WAMPLER: Okay.

5 LESLIE K. ARRINGTON: It won't be much further to
6 the east.

7 BENNY WAMPLER: Okay.

8 LESLIE K. ARRINGTON: Now, it may...it may further
9 expand to the north into that red or orange looking areas.
10 It may get up into that to the north, but not much further to
11 the east.

12 BENNY WAMPLER: Is there any reason that you had Y-
13 43 through 49 on there but yet not colored? What am I
14 missing there?

15 RICK TOOTHMAN: Oh, that's...I think that's what
16 we'll come back, and that's what Les was talking...talking
17 about, to come back before the Board to include that in the
18 next...as we go north.

19 BENNY WAMPLER: It was just listed in this one.

20 LESLIE K. ARRINGTON: It was listed and failed to
21 color it on this exhibit is what has happened.

22 BENNY WAMPLER: Okay. So, this should be?

23

24

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1 LESLIE K. ARRINGTON: Yes. This probably should be
2 colored one more to the north, Y-43 through 49. I think
3 we've missed that.

4 BENNY WAMPLER: Are there any parties participating
5 in any of these wells that would be impacted by any decision
6 of the Board? Do you have any carried?

7 MARK TUGGLE: Yes.

8 BENNY WAMPLER: I'll go ahead and let you ask a
9 question. State your name again for the record.

10 UNKNOWN: I'm Mark Tuggle. Do I need state
11 everyone that I'm representing here?

12 BENNY WAMPLER: Please.

13 MARK TUGGLE: I'm representing Dollie S. Belcher,
14 Paul Richardson, Shelby Ruth Richardson, Leonard Richardson,
15 Doris E. Dye and Ruby Ball Lawson. This is concerning
16 particularly wells EE-33, 34, 35, FF-33, 34 and 35. First of
17 all, I guess the first thing that we have to object to is the
18 environmental impact that's happening due to these gas wells.
19 The hollows that we live on, Mill Creek, Horton Ridge,
20 Little Mill Creek, the right fork of Mill Creek, all those
21 areas have never had a flood or a flooding problem before
22 actual development started when actually developing the
23 roads, hard surfacing them, traveling, compacting the
24

1 surface. Now, every single rainfall event, floods the main
2 roads, floods the bottoms. It has been on WCYB. It has been
3 on WVVA. It has been on CNN. Actually, the impact that
4 happened...the rainfall event that happened in April was not
5 a 100 year peak rainfall flood. This is simply due to the
6 disturbed area on all these ridges and all these forks and
7 all the development and all the sites where you actually
8 compact the material. You have vehicles driving up and down
9 it continuously. There's no sumps. If this was a coal haul
10 road, there would be a sump to contain sediment. There would
11 be a sump or a pond to contain the rainfall event to reduce
12 the impact downstream. Gas wells are not covered by that
13 same laws and governing. By doubling these gas wells,
14 they're going to be coming down these ridges that we do have
15 vegetation on, that we do have some control on and actually
16 putting gravels and compacting this material, that's just
17 going to cause even more problems downstream.

18 I know that given some years later, you know, if
19 vegetation can start growing and stuff, maybe it would be
20 reduced. But at this point in time, I don't think that this
21 is even feasible for impact reason.

22 Number two, ownership of the well, the grid areas.
23 Some of the grid areas, we control over 60%, yet they're
24

1 going to put another well down. There's not even surface
2 area for them to drill and stay 600 feet away from some of
3 these wells and not be on our surface properties that we're
4 objecting to.

5 Okay, the next thing, is they're not just drilling
6 for the Pocahontas 3, which is help and aid in the mining
7 process, which this Board stated the last time we objected to
8 these wells; said this was to aid in the mining process. The
9 actual seam that they're mining is the Pocahontas No. 3.
10 They're not stopping at the Pocahontas 3. They're fracing
11 all the wells. They're also drilling into the red and green
12 shales, which is not coalbed methane. That is actually deep
13 gas, which is...which belongs to the gas owner. If they
14 would stop at the Pocahontas 3 and frac the Pocahontas 3
15 only, then yes, coalbed methane for mining purposes, yes,
16 there would be no argument in it. But this is strictly for
17 profit. It's not for aiding in the mining process. If...
18 originally when all these leases were signed, the people who
19 did sign it was told there would be one well per 80 acre
20 tract. Now, suddenly it's not good enough. Now, they're
21 going to have to come back and do two. If, I'm not mistaken,
22 sometimes they'll do three, four or five in advance of a
23 longwall panel, vertical ventilation hole. So, where does it
24

1 stop? I mean, we've got a put a...we've got a put a limit on
2 this. But if it was for the Pocahontas 3 alone, I could see
3 their argument saying, yes, it is for the benefit of the
4 mining. But no, it's not. It's for strictly economics.

5 In Coal Age magazine, CNX stated that they had
6 their best year, highest profit ratio. That's not aiding
7 in...that's not capturing a resource to help a mining
8 process. That's actually taking gas from the gas owner and
9 giving it to them and letting them profit from it.

10 There was a ruling by Judge Mullins in Grundy where
11 CNX was sued and Columbia and a couple of other companies
12 where sued, and it was ruled by Judge Mullins that the
13 surface owners did own the coalbed methane. That gas is gas
14 regardless of where it's located. I know that it has been
15 appealed to a higher Court. But pending, you know, future
16 hearings or, you know, the actual trial, we won't know the
17 actual ruling who does own coalbed methane. But right now,
18 as it stands right, now the ruling, the precedent, is by
19 Judge Mullins, or Bob Williams, or I'm sorry, Bob Williams in
20 Grundy, and it does state that the surface owner, unless
21 specifically stated in the lease that, you know, when they
22 bought the coal that they also bought the oil and gas rights,
23 you know, that the surface owner is the gas owner in this...

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1 in this situation here.

2
3 Another thing, I guess when it comes down to the
4 royalties and stuff, we were told...you know, we would get,
5 since it was force pooled, that we would have one-eighth put
6 into a force pool. Okay, now we still have...even though
7 there's a ruling which, you know, hasn't went through all the
8 appellate cases and stuff now we still...you divide one-
9 eighth in two, that's one-sixth. Okay, all our money is
10 being put into a escrow account. All the money is suppose to
11 be, after all the improvements to the road, all the
12 improvements to the well casing, after all of that's taken
13 out of the cost of developing the well site and stuff like
14 that, then that's what is actually divided like into the one-
15 eighth and then it's only like if we own 5% it's only 5% of
16 the one-eighth and then you divide that in half, you-know,
17 it's 5% of one-sixth. Well, according to the newspapers and
18 stuff, you can look in Coal Age magazine, you can look in
19 several other magazines, you know, their costs on the wells
20 that they accounted...you know, that they had depleted from
21 this is how much profit we made on this well, they reported
22 for their taxes purposes on...this is just Buchanan County
23 alone, this is in the Virginia Mountaineer, it's public

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1 information, you can get it anywhere. They counted 278.6
2 million dollars worth of tax credits. But then they come
3 back and say, whoa, whoa, whoa, no, it's not that much. It's
4 just a nominal is all the improvements we actually done.
5 We're going to take this off of our taxes and we're going to
6 take this off of what we're going to pay to the gas owners
7 because this is how much we paid to drill these wells and to
8 put hard surface on it, but we're not going to pay tax on it.
9 So, where do...we can't get by with that. A normal citizen
10 can't get by with that. So, I'm saying we have to figure out
11 something.

12 I think that it's just pure...that they're wanting
13 to try to deplete these reserves prior to an actual ruling on
14 who actually owns the coalbed methane and the gas. They
15 admitted that, yes, it was for economic reasons. But I do
16 understand, you now, that Buchanan 1 will probably be down in
17 that region eventually, but, you know, with fracing and
18 everything else going on, coalbed methane by any study is a
19 migrating gas. It's not a stationary gas. So if you frac it
20 and you provide the voids for it to travel, I believe that
21 the one well can actually drain this 80 grid block, you know,
22 in time. But, I guess, the main thing that I have to ask
23 them is the time frame that we're talking. But I believe

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1 that purely it's not to aid in the mining since it's actually
2 piercing below the Pocahontas 3. The only thing you're doing
3 is introducing gas from the deeper formations back into your
4 seam. That's kind of ridiculous if you're trying to say, you
5 know, we're doing coal degasification to aid our mining when
6 you actually pierce through the seam and you're actually
7 introducing gas from another seam into your seam into
8 wellhead to try to ventilate it.

9 Then you look at their graphs, you know, you have
10 peak, like on the orange area, you have a peak when it's
11 first initially drilled and first initially fraced, but then
12 it also comes back right in the same production levels as the
13 gray level, then the same on the purple. If you look down on
14 the purple area, actually some of those didn't even produce
15 as well as the original well heads. So, I think that it's
16 just simply that they're trying to liberate more gas for the
17 market conditions right now because the market is bringing
18 6.20 per mcf. But who's seeing that? We're not seeing it.
19 There's not a property owner one seeing that unless they
20 actually away half of their rights to the coal company or the
21 mineral holder.

22 That's basically my argument on this. But the main
23 reason in this one region is for the environmental impact
24

1 that we're having. My mother's house, you know, it...it's 80
2 years old and our family has known the house as long as it
3 has been there and never flooded. We've flooded three times
4 in the past year. The same way with Raven Bottom and the
5 same way with Long Branch, the same way with Horton Ridge,
6 Little Mill Creek, all those same regions. Everyone of them
7 has flooded since all of this has started. Now, I know they
8 can attribute it...we did have a large rainfall amount, but
9 it wasn't a 100 year peak. During the 100 year peak we had
10 before it didn't flood. So, there has...the only thing that
11 you can actually point to is the road and site development,
12 the hard surfacing and the...I guess, the equipment and
13 trucks traveling it. That's basically all I have to say.

14 BENNY WAMPLER: Questions of this witness?

15 (No audible response.)

16 BENNY WAMPLER: Mr. Swartz, do you have---?

17 MARK SWARTZ: I don't have any questions.

18 BENNY WAMPLER: Any response?

19 MARK SWARTZ: Yeah. I was making notes and it
20 appears to me that every issue except one that has been
21 raised is a permitting issue. If there is a flooding
22 problem, the question is sediment control and runoff control
23 and the planning that goes into dealing with that in a
24

1 permitting setting. I heard about surface disturbance.
2 Obviously, if there was a proposal to drill a well on surface
3 owned by his family, we'll have to deal with his family. If
4 we can't deal with them and reach an agreement with them,
5 we're going to be locating the well somewhere else, but that,
6 again, is a permitting issue.

7 Producing from multiple seams, I mean, the
8 economics, we've discussed that. But, again, the permit to
9 produce from multiple seams that's a permitting issue.

10 So, basically, everything I've heard from this
11 gentleman this morning, with one exception, is a permitting
12 issue, which, you know, there's a forum to address that and
13 it's not here.

14 The last thing that I'm hearing is an economics
15 argument. I will freely confess on behalf of my client, that
16 they're in the business to make money. You know, the
17 economics of these wells that we've talked about frankly this
18 morning with you, is the reason that we are here. I mean,
19 this plan of infill drilling produces more gas over a shorter
20 period of time. That's...that's the reality. That's why
21 we're doing this. Gas prices, you know, at \$3.00 and \$3.50
22 makes sense. They happen to be even greater now. So, it
23 makes even more sense. But the idea is to get more gas from
24

1 these existing units and get it in a shorter period of time.

2 If that happens, a one-eighth royalty of a bigger number is
3 a bigger number. So, to the extent that there's, I guess, an
4 argument about the economics of this, I don't think anybody
5 is questioning that this makes economic sense. But,
6 essentially, the issues that I'm hearing about this morning
7 are permitting issues and, you know, to the extent that there
8 are well permits and the distance requirements would give
9 this gentleman and his family an opportunity to object, you
10 know, they're going to be afforded that right. But it isn't
11 today. That would just be my observations with regard to
12 that.

13 BENNY WAMPLER: Let me ask a question of your
14 engineer here as far as your drilling depth, how---?

15 RICK TOOTHMAN: Mr. Wampler, the drilling depth
16 extends below the lowest seam that you're after, in this
17 case, we'll call it the Pocahontas 3 seam, because coalbed
18 methane or coal reservoirs are in two phase system. You've
19 got associated water that you have got to pump to the surface
20 to reduce the reservoir pressure. Shift the relative
21 permeability to gas to produce more gas.

22 So, the reason that you drill below the Pocahontas
23 3 seam, our typical is about a 150 feet, I'll say plus or
24

1 minus. To be quite honest with you, we avoid the red and
2 green shales like the plague if at all possible because of
3 the drilling problems that associated with it. It's very
4 water sensitive. But there are times that we have penetrated
5 the red and green shales. But, generally, that is a
6 collection chamber for water to come in from the coal seams
7 down in and you set a pump below to keep the pressure, the
8 back pressure off the well to get it to produce at its
9 optimum.

10 That's why there's a design practice to do that.
11 If you only penetrated to the 3 seam, you'd have to set a
12 pump at least 50 foot above that, which means that it will
13 always be 50 to 100 foot...you'll have 50 to 100 foot of
14 working water above that and that's 43 pounds of back
15 pressure. A very low pressure reservoir, so you basically
16 kill the well.

17 BENNY WAMPLER: Would you address the pen...the
18 fact that you're penetrating multiple seams and the migration
19 of the gas from seam to seam?

20 RICK TOOTHMAN: The...the only thing I can tell you
21 is that when you...when you penetrate these multiple seams
22 and we get through 150 foot below the 3 seam, generally you
23 run casing and cemented it up all the way to surface, is our
24

1 standard construction technique, therefore, you've isolated
2 those zones individually. Now, we do go back in, we'll
3 perforate and fracture stimulate most of these seams.
4 Occasionally, a very thin stringers and so forth are
5 bypassed. From...we do have data, that I can tell you that
6 we have attempted some...some techniques and, in fact, where
7 we've tried to stimulate each seam individually and then have
8 done as many as, I want to recall, at least 15 stages in one
9 given well bore. We frac below a piper, which the backside
10 is open and we've not communicated around the backside, which
11 means that if I've got a set of perforations here and a set
12 of perforations there and you put something solid in between,
13 if we were going to frac and communicate between coals that
14 once it got out in the reservoir it would come back up and
15 you'd see pressure on the backside. We've done as many as
16 probably 70 stages like that. It's not a technique that we
17 do because unfortunately we couldn't make it an economic
18 procedure. But we do have the data to support the fact that
19 we don't communicate between coals. You may communicate
20 between coals that are 5 to 10 foot or something, but most of
21 these coals kind of come into intervals like 50 feet or
22 greater and we've not seen it yet.

23

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1 BENNY WAMPLER: Mr. Tuggle, you expressed an
2 interest specifically in EE and FF and the numbers were 32
3 through---?

4 MARK TUGGLE: 33, 34, 35 on both EEs and FFs.

5 BENNY WAMPLER: Okay.

6 MARK TUGGLE: I have another...I have a question
7 that was raised, I guess, as a counter argument. How do you
8 differentiate between the gas that's going to be liberated
9 below the Pocahontas 3 and what's actually coming through
10 well casing? I mean, that's...that's our gas. There's no
11 argument to that. That is the gas owner. That is not
12 coalbed methane. How do you differentiate and how do you pay
13 the gas owner for the gas that's liberated during this
14 process?

15 RICK TOOTHMAN: The...in this particular case,
16 we've got at least all of the data that we have...first of
17 all, when we complete drilling, we generally test the well to
18 see if there's any free flowing gas coming out of the well.
19 Occasionally there is. When that...when that takes place,
20 sometimes we've ran spinner surveyors, which are called
21 production logs or cameras to see where the gas is coming
22 from. We've got visual evidence, as well as geophysical
23 logging tools that tell us where the gas is coming from. In

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1 every instance, we've seen gas that has come out of the coal
2 seams. If you drill to a depth and we know that we're
3 fracing through casing, we've got solid plugs set below us,
4 it's in no way ever been stimulated, we're just not seeing
5 the gas from those intervals. There's not a...we're not
6 penetrating a reservoir, so to speak, that the Oil and Gas
7 Board would be familiar with like the Berea or the Big Lime
8 or the Raven Cliff that are known conventional oil and gas
9 reservoirs. We are going through some sand stones that are
10 interlayed with the coals down to about the Pocahontas 1
11 seam, which is Pennsylvania Age rock, and to my knowledge, is
12 not really a commercial reservoir in this area. If...I think
13 you would have a legitimate argument if we were going down
14 and we're drilling through the Raven Cliff sandstone, then I
15 would tend to agree with you, there's a potential that we're
16 taking a resource that we don't own, but that, in fact, that
17 is not what we're doing.

18 BENNY WAMPLER: What is the time frame that you
19 would plan to drill additional wells in the specific area
20 he's objecting to, EE and FF?

21 LESLIE K. ARRINGTON: At this time...at this time,
22 we will essentially develop units that we can do deals and
23 get a unit, a well in. Within the units that he's speaking
24

1 to, that's way down the road, if at all. We do have wells in
2 those units, the one well for 80 acres. But to come in and
3 drill an infill with...you know, within the units that he's
4 talking about, I doubt that we would do that.

5 BENNY WAMPLER: Are you requesting us to deny that
6 as regards to those? Do you have any objection to
7 withdrawing those?

8 LESLIE K. ARRINGTON: I don't.

9 BENNY WAMPLER: I mean, I'm inclined to deny them
10 if they're not ready to do them now anyway, just me
11 personally, for those specific wells, not necessarily for the
12 reasons stated because I agree that is mostly permitting
13 issues. But if it's way down the road and, you know, more
14 information may be available at that time and you can forward
15 and, you know, at that time we...we might approve them even
16 if you still object. But we may have more information to
17 base our decision at that time as well. Anything further?

18 MARK SWARTZ: Well, just out of curiosity, what
19 precisely then are you suggesting, your personal view?

20 (Leslie K. Arrington and Mark Swartz confer.)

21 BENNY WAMPLER: EE and FF-32 through 35.

22 MARK SWARTZ: 33 through 35.

23 BENNY WAMPLER: 33-35...33-35.

24

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1 MARK SWARTZ: So, basically we're talking about
2 those six units?

3 BENNY WAMPLER: Yes.

4 MARK SWARTZ: You know, I don't have those pooling
5 files in front of me, but we could be talking about
6 infinitesimal interest in some of these units. I mean, I
7 don't...and I think, you know, as a personal observation, you
8 know, there are a lot of other people in those units who are
9 not here.

10 BENNY WAMPLER: I understand. I understand that.
11 I also understand that he says that there is no plan to
12 develop anytime soon.

13 LESLIE K. ARRINGTON: Well, in saying that, on his
14 property, you know, way down the road, we'd have to do some
15 sort of deal with them. Anita is looking here and hopefully
16 she may have that.

17 (Leslie K. Arrington confers with Anita.)

18 LESLIE K. ARRINGTON: For instance, here is one
19 unit, EE-33 they have either 4 acres or 5% of the unit.

20 (Leslie K. Arrington confers with Anita and Mark
21 Tuggle on the percentages.)

22 BENNY WAMPLER: You know, I understand what you're
23 saying. I guess in response to my earlier question, I

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1 thought you said you had no immediate plans to develop that
2 area, is what I was asking.

3 LESLIE K. ARRINGTON: Well, I...and I may...I
4 guess, I misspoke. Not on his property.

5 BENNY WAMPLER: That's why I was suggesting we
6 leave them...if there's no immediate plan, that we leave them
7 out.

8 MARK SWARTZ: If you don't mind, let me ask Les
9 a...Les, when you were talking about what you were going to
10 develop first, I think Benny asked you a question, you know,
11 where is your priority going to be---.

12 BENNY WAMPLER: Right.

13 LESLIE K. ARRINGTON: Right.

14 MARK SWARTZ: ---in essence. I understand your
15 answer as a pilot way of saying we're going to go where we
16 have the least problems. Would that a way to characterize
17 your answer?

18 LESLIE K. ARRINGTON: Yes, it is.

19 MARK SWARTZ: And, obviously, if you have
20 difficulty with surface owners, that's going to be the last
21 place you go as opposed to places where you don't have
22 difficulties with the surface owners?

23 LESLIE K. ARRINGTON: That's correct.

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1 MARK SWARTZ: So, I think, you know, you may
2 have...he gave a touchy, feely answer---.

3 BENNY WAMPLER: Okay.

4 MARK SWARTZ: ---that, you know, this is where
5 we're going to go first. Well, sometimes you need to be more
6 blunt, you know.

7 BENNY WAMPLER: Well, I was asking about the units
8 themselves---.

9 MARK SWARTZ: Exactly.

10 BENNY WAMPLER: ---specifically.

11 MARK SWARTZ: And I think he...he misunderstood
12 your questions and said this is...you know, this is how we
13 select where to start.

14 BENNY WAMPLER: Do you have anything further?

15 MARK SWARTZ: No.

16 LESLIE K. ARRINGTON: No.

17 BENNY WAMPLER: Any further questions from members
18 of the Board?

19 BOB WILSON: Mr. Chairman.

20 BENNY WAMPLER: Mr. Wilson?

21 BOB WILSON: There was some issues, I think we need
22 to address on this before you get into voting on it. The
23 prior order, which was issued for what's been referred to as
24 the yellow area on here, I believe testimony started out that
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1 you basically wanted to duplicate that order for this area.
2 But that differs significantly from the application the few
3 instances. The application has asked for the right to
4 drill additional wells in each of these units that they've
5 applied for here without regard to the 600 foot spacing
6 that's in the field rule or the 300 foot unit boundaries, or
7 set back in the individual units according to the
8 application.

9 The order that was issued earlier, basically lets
10 those restrictions stand under the existing field rules, but
11 provides for certain exceptions. With the...under concern
12 for drilling outside of the drilling window, the order for
13 the yellow area specified that there are two different
14 scenarios there for approving drilling outside the windows.
15 One of which, the proposed location fits in the center of an
16 80 acre square and none of that square touches anything other
17 than voluntary units, then the DGO director, myself, can
18 assess that as normally and grant or deny that permit to
19 drill outside the window. If the 80 acre unit formed around
20 the proposed well, includes any portion of a pooled unit,
21 then the application has to be referred to the Board and the
22 Board has to handle that...those correlative rights issues.
23 I just wanted to make sure that if we're mimicking this
24 existing order, then that's the way we would go with this,

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1 which, again, is a bit different than what the application
2 asks.

3 MARK SWARTZ: I think the application was simply
4 copied from the first one and that's why it asks for that. I
5 mean, our intention was to not start over conceptually with
6 you. Okay, I think we just recycled a form that we had used
7 and that's...that's why the form is what it is and why we're
8 asking for you to duplicate the results. We've already done
9 that, but good question.

10 BENNY WAMPLER: Anything further?

11 BILL HARRIS: Mr. Chairman, I do...I do have a
12 concern about---.

13 BENNY WAMPLER: Mr. Harris.

14 BILL HARRIS: I mean, I know this is probably in
15 the permitting process, but this flooding issue, is there
16 anyone looking at that on a grand scale. I mean, I---.

17 BENNY WAMPLER: There's a bunch of lawsuits
18 regarding it, I can tell you that---.

19 BILL HARRIS: Well, so then---.

20 BENNY WAMPLER: ---between the gas and the coal.

21 BILL HARRIS: ---it will be looked...yeah, okay.
22 That's a concern that I would have---.

23 BENNY WAMPLER: Yeah.

24 BILL HARRIS: You know, we talk about logging and
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1 we talk about mining and whatever, and flooding in areas that
2 we haven't had that before. I just...okay, thank you. That
3 was---.

4 BENNY WAMPLER: Other questions?

5 (No audible response.)

6 BENNY WAMPLER: Do you have anything further, Mr.
7 Swartz?

8 MARK SWARTZ: No, I don't.

9 BENNY WAMPLER: Do you have anything further?

10 MARK TUGGLE: No, sir.

11 BENNY WAMPLER: Is there a motion?

12 JIM MCINTYRE: Motion to approve.

13 BILL HARRIS: Do we need to add---?

14 BENNY WAMPLER: Not unless it's in the motion. I
15 was just discussing my concern personally. The motion is to
16 approve as presented. Is there a second?

17 JIM MCINTYRE: Which would have the same
18 restrictions as we had in the---.

19 BENNY WAMPLER: As the prior order.

20 JIM MCINTYRE: That's right.

21 BENNY WAMPLER: No second. Motion denied. No
22 second.

23 BILL HARRIS: Is there not a...well, go ahead and
24 let me let you do the administrative thing. Was there not a

--

1 discussion to exclude these units from---?

2 BENNY WAMPLER: Yeah, I was just discussing that.

3 But I had a question just for clarification and I asked the
4 question, is there any plan to develop these six units in the
5 immediate future? The response that I got was, I thought, we
6 won't try to go back and repeat it, was that, no, there's no
7 plan...no immediate plan and possibly in the future we'll be
8 going where we have the less problem, if you will, but, you
9 know, basically may never develop them. I was saying, well,
10 then if that's the case, let's take them out of the loop
11 here. Then further discussion was only in those areas where
12 there are property owners are they talking about staying
13 away, where Mr. Tuggle and the people he represents own
14 property. But not---.

15 BILL HARRIS: So, you're saying---.

16 BENNY WAMPLER: ---from the development of the
17 units itself. So, that's---.

18 BILL HARRIS: So this...this should take care of
19 itself is what you're suggesting in terms of---.

20 BENNY WAMPLER: I mean, that's what...that's kind
21 of what they were responding that they're not going to...
22 essentially they don't anticipate being able to work out a
23 deal with them to work...to get a well on their property.
24 So, from that standpoint, yes, his concern on his property it

--

1 would take care of itself. Have I---?

2 MARK SWARTZ: Right. We're not going to...if we
3 have to disturb their surface, we don't perceive that we're
4 going to be able to reach an agreement, so the problem is
5 going to solve itself. We're not going to be there. I mean,
6 we can't disturb surface without some kind of agreement, in
7 general.

8 BENNY WAMPLER: And they were point...pointing out
9 further that their surface in some...in some of the units is
10 very small and others it's as much as 60%, but nowhere is it
11 a 100%.

12 BILL HARRIS: In that case, I'll second the motion.

13 BENNY WAMPLER: I have a motion and a second. Any
14 further discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying
17 yes.

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. Let's take a
22 ten minute break and then we'll call Equitable Production
23 Company.

24 (Off Record.)

--

1 BENNY WAMPLER: A petition from Equitable
2 Production Company for creating and pooling of a conventional
3 gas unit, V-503211, docket number VGOB-05-0118-1394. We'd
4 ask the parties that wish to address the Board in this matter
5 to come forward at this time.

6 JIM KISER: Mr. Chairman and members of the Board,
7 Jim Kiser, on behalf of Equitable Production Company. Our
8 witness in this matter will be Mr. Don Hall.

9 BENNY WAMPLER: Go ahead and swear the witness.

10 (Don Hall is duly sworn.)

11 BENNY WAMPLER: State your name for the record.

12 LARRY STANLEY: Larry Stanley.

13 BENNY WAMPLER: You may proceed, Mr. Kiser.

14

15 DON HALL

16 having been duly sworn, was examined and testified as
17 follows:

18 DIRECT EXAMINATION

19 QUESTIONS BY MR. KISER:

20 Q. Mr. Hall, if you would state your name for
21 the Board, who you're employed by and in what capacity?

22 A. My name is Don Hall. I'm employed by
23 Equitable Production Company as district landman.

24 Q. And do your responsibilities include the

--

1 land involved in this unit and the surrounding area?

2 A. They do.

3 Q. Are you familiar with Equitable's
4 application seeking to establish a drilling unit and pool any
5 unleased interest in the unit for well EPC number V-503211,
6 which was dated November 17th, 2004?

7 A. Yes.

8 Q. Does Equitable own drilling rights in the
9 unit involved here?

10 A. We do.

11 Q. Now, prior to filling the application, were
12 efforts made to contact each of the respondents owning an
13 interest within the unit and an attempt made to work a
14 voluntary agreement?

15 A. Yes.

16 Q. What is the interest of Equitable under
17 lease within the unit?

18 A. We have 88.35% leased.

19 Q. Okay, and the percentage of the unit that
20 remains unleased at this time?

21 A. 11.65.

22 Q. And subsequent to filing the application,
23 did you continue to attempt to reach an agreement with any of
24

1 the unleased respondents as listed at Exhibit B-3?

2 A. Yes.

3 Q. As a result of all those efforts, have you
4 acquired any additional leases?

5 A. No, we haven't.

6 Q. Are all unleased parties set out in Exhibit
7 B-3 to the application?

8 A. They are.

9 Q. Okay, we don't have any unknown or
10 unlocateable parties in this unit?

11 A. No.

12 Q. In your professional opinion, was due
13 diligence exercised to locate each of the respondents named
14 herein?

15 A. Yes.

16 Q. Are the addresses set out in Exhibit B to
17 the application the last known addresses for the respondents,
18 to the best of your knowledge?

19 A. Yes.

20 Q. Are you requesting this Board to force pool
21 all unleased interest listed at Exhibit B-3?

22 A. Yes.

23 Q. Are you familiar with the fair market value
24

1 of drilling rights in the unit here and in the surrounding
2 area?

3 A. Yes.

4 Q. Could you advise the Board as to what those
5 are?

6 A. A five dollar bonus, five year term, one-
7 eighth royalty.

8 Q. In your opinion, do the terms you just
9 testified to represent the fair market value of and the fair
10 and reasonable compensation to be paid for drilling rights
11 within this unit?

12 A. They do.

13 Q. Now, as to those parties listed at Exhibit
14 B-3 who remain unleased, do you agree that they be allowed
15 the following statutory options with respect to their
16 ownership interest within the unit: One, participation; two, a cash
17 bonus of five dollars per net mineral acre plus a one-eighth of eight-eighths
18 royalty; three, in lieu of a cash bonus and one-eighth of eight-eighths royalty, a
19 share in the operation of the well on a carried basis as a carried operator under
20 the following conditions: Such carried operator shall be entitled to the share
21 production from the tracts pooled accruing to his interest exclusive of any royalty
22 or over riding royalty reserved in any leases, assignments thereof, or agreements
23
24

1 relating thereto of such tracts but only after the proceeds applicable to his share
2 equal A) 300% of share of such costs applicable to the interest of the carried
3 operator of a leased tract or portion thereof; or 200% of the share of such costs
4 applicable to the interest of the carried operator of an unleased tract or portion
5 thereof?

6 A. Yes.

7 Q. Do you recommend that the order provide that elections by
8 respondents be in writing and sent to the applicant at Equitable Production
9 Company, 1710 Pennsylvania Avenue, Charleston, West Virginia 25328, attention
10 Melanie Freeman, regulatory?
11

12 A. Yes.

13 Q. Should this be the address for all communications with the
14 applicant concerning any force pooling order?

15 A. It should.

16 Q. Do you recommend that the order provide that if no written
17 election is properly made by a respondent, then such respondent should be
18 deemed to have elected the cash royalty option in lieu of any participation?
19

20 A. Yes.

21 Q. Should unleased respondents be given 30 days from the
22 date that the Board order is executed to file their written elections?

23 A. Yes.
24

1 Q. If an unleased respondent elects to participate, should
2 they be given 45 days to pay the applicant for their proportionate share of well
3 costs?

4 A. Yes.

5 Q. Does the applicant expect any party electing to participate
6 to pay in advance that parties share of actual completed well costs?

7 A. We do.

8 Q. Should the applicant be allowed 120 days following the
9 recordation date of the Board order, and thereafter, annually on that date until
10 production is achieved to pay or tender any cash bonus or delay rental becoming
11 due under the order?
12

13 A. Yes.

14 Q. Do you recommend that the order provide that if a
15 respondent elects to participate, but fails to pay their proportionate share of well
16 costs satisfactory to that applicant for payment of those costs, then the
17 respondent's election to participate should be treated as having been withdrawn
18 and void?
19

20 A. Yes.

21 Q. Do you recommend that the order provide where a
22 respondent elects to participate but defaults in regard to payment of their well
23 costs, any sum becoming payable to that respondent be paid within 60 days after
24

1 the last date on which such respondent could have paid or made arrangements
2 for the payment of those well costs?

3 A. Yes.

4 Q. In this particular case, it's a conventional well and we don't
5 have any unknown or unlocateable owners. So, the Board does not need to
6 establish an escrow account, is that correct?

7 A. That's correct.

8 Q. And who should be named operator under any forced
9 pooling order?
10

11 A. Equitable Production Company.

12 Q. And what is the total depth of the proposed well?

13 A. 5470 feet.

14 Q. Is the applicant requesting the force pooling of
15 conventional gas reserves not only to include the designated formations, but any
16 other formations excluding coal formations that may be between those formations
17 designated from the surface to the total depth drilled?
18

19 A. Yes.

20 Q. What are the estimated reserves for the unit?

21 A. 325 million cubic feet.

22 Q. Are you familiar with the well costs?

23 A. Yes.
24

1 Q. Has an AFE been reviewed, signed and submitted to the
2 Board as Exhibit C to the application?

3 A. It has.

4 Q. Was it prepared by engineering department,
5 knowledgeable in the preparation in regard to well costs in this area?

6 A. Yes.

7 Q. In your opinion, does it represent a reasonable estimate of
8 the well costs?
9

10 A. Yes.

11 Q. Could you state for the Board both the dry hole costs and
12 completed well costs?

13 A. Dry hole costs is \$207,110. The completed well cost will
14 be \$348,884.

15 Q. Do these costs anticipate a multiple completion?

16 A. Yes.

17 Q. Does your AFE include a reasonable charge for
18 supervision?
19

20 A. Yes.

21 Q. In your professional opinion, would the granting of this
22 application be in the best interest of the conservation, the prevention of waste,
23 and the protection of correlative rights?
24

1 A. Yes.

2 JIM KISER: Nothing further of this witness at this time, Mr.
3 Chairman.

4 BENNY WAMPLER: Questions from members of the Board?

5 (No audible response.)

6 BENNY WAMPLER: Do you have any questions, Mr. Stanley?

7 LARRY STANLEY: Well, I...I had been notified of the attempt to
8 reach me to get the right to drill. There's a pipeline that has been laid across the
9 road from my house and the work that was done there made me rather
10 reticent to agree to anything because my land all lies up
11 hill above me. The quality of the work that was done laying
12 the pipelines across the road was rather shoddy and I was
13 afraid that anything above me would be equally so. I work in
14 the coal industry and get to travel a lot. The areas, Allen
15 Burchfield, are treated more as a colony in which things are
16 to be extracted and sold elsewhere. So, I didn't desire to
17 have a road or to grant ingress and egress from my property
18 because I've had experience of the dozing that I did on my
19 own house site there that caused slumps and slide problems.
20 My neighbor immediately below me who has Tract No. 8 also has
21 the same problems. So, neither of us desire to have
22 any...anything up above us. But in looking at the map, I can
23

24
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1 see...I can see that it's going to be on a ridge on another
2 spur from us. But the only problems there, as the previous
3 engineer had stated in the hearings, is that the roads could
4 cause problems up above, you know, unless there's provision
5 for sumps and drainages to contain runoff. So, any runoff
6 above there still has the potential of going down in the
7 hollow. There's a hollow that comes out called (inaudible)
8 hollow that's directly under...below the well site. The one
9 up the road above there would come down into my house area.

10 BILL HARRIS: Excuse me, Mr. Chairman, we...I
11 notice you're looking at a topo map. We don't have that.

12 DON HALL: You must have a copy of the permit
13 application. Could I see the---?

14 BENNY WAMPLER: He's dealing with permitting issues
15 so far.

16 DON HALL: Yeah, this is a copy of the permit
17 application.

18 BENNY WAMPLER: The Board at this point wouldn't
19 have jurisdiction over those types of issues. That goes to
20 the Gas and Oil inspector, Mr. Wilson. The Board is
21 entertaining the request for creation and pooling of the
22 conventional gas.

23 LARRY STANLEY: Well, I...I wanted to address that
24

1 while I could.

2 BENNY WAMPLER: That's all right.

3 LARRY STANLEY: So, with the words that is on

4 there, force pooling, I guess I have a very little choice in

5 it. But I do want to say that I...I do...and my neighbor

6 concurs, had he been here with me, although it may be a force

7 pooling, I don't want any ingress, egress or tracking on my

8 property because it's above me---.

9 BENNY WAMPLER: Is there any plan---?

10 LARRY STANLEY: ---and the land won't take it.

11 BENNY WAMPLER: Is there any plans---?

12 JIM KISER: I'll let Mr. Hall address that.

13 DON HALL: Could I see your permit application

14 again? I don't have a copy of that with me. I don't think

15 there's any operation at all. This...this location was on a

16 strip job, as you see...as you can see from the topographic

17 map. It's on ACIN property. I guess it is...I think this is

18 property, his property right here. The well is up here.

19 LARRY STANLEY: 7 and 8.

20 DON HALL: Yeah---.

21 LARRY STANLEY: 7 and 8.

22 DON HALL: He's generally in this area right here,

23 I think. We have no plans to be on his property. Let's see,

24

--

1 the pipeline comes back out the strip job. There's no...no
2 activity on this property. I think the pipeline he's
3 referring to is actually not our pipeline. I think it's the
4 line that goes to the Red Onion Prison. Evan Energy owned
5 it. I'm not sure who owns it now, if it has been transferred
6 or not. But I think that's the one he's referring to.

7 LARRY STANLEY: I hate...I hate to cast a
8 reflection, but having seen that pipeline and the slash and
9 burn and cut and get out type of work that was done on that,
10 there was no reclamation done, very little in erosion control
11 and as a result right down the hollow from me, the water ran
12 both direction and filled the drainpipes full and now it runs
13 over the road and as the previous engineer had said, we have
14 flooding problems now across the road and that never occurred
15 before.

16 BENNY WAMPLER: Mr. Wilson?

17 BOB WILSON: Yeah, it's...I'm not certain of this,
18 but it's my opinion, based on what you've said, that that
19 particular pipeline was under the direction of the State
20 Corporation Commission.

21 BENNY WAMPLER: So, we don't regulate all the
22 pipelines like that. It's not attached to the well site.

23 LARRY STANLEY: I didn't know that.

24

--

1 BENNY WAMPLER: It's not a regulated entity by our
2 agency.

3 LARRY STANLEY: I look at the example everyday.

4 BENNY WAMPLER: I understand.

5 BOB WILSON: I would invite Mr. Stanley that if he
6 has problems of this sort with any operations that he thinks
7 might be under the Division of Gas and Oil, that he's
8 certainly welcome to give us a call and let us know.

9 BILL HARRIS: Let me...one other clarification
10 about the permitting. Has that...has the well been permitted
11 yet?

12 DON HALL: Been applied for. I don't think we have
13 received a permit yet.

14 BILL HARRIS: You know, he's expressing...well, I
15 don't know if that...it may not be on his property, so that
16 may not apply to him. But, you know, is he...can he come to
17 the permitting hearing or is there a hearing of such for
18 that.

19 BOB WILSON: Actually, there would only be a
20 hearing if an objection is raised to the permit application.
21 Surface owners who are affected and all mineral owners have
22 certain rights to object to a permit application. Those
23 objections have to be filed within 15 days of receipt of the

24
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1 permit application. If Mr. Stanley's surface is not to be
2 disturbed under this permit application, he would not have
3 standing to object as a surface owner.

4 LARRY STANLEY: There is one further point I'd like
5 to raise and that is in traveling the way I do with...under
6 MSHA and seeing the strip mine roads and abandoned strip
7 mines, etc., is that any new road created is a ready access
8 point for ATV vehicles. We're having a tremendous problem
9 with ATV people coming in without authorization and
10 trespassing; and not only that, they can park an ATV a mile
11 away and walk in and break in and rob. I see it every week.

12 Somebody has broken in either a mine installation or like
13 rob houses, go back through the woods and get on their ATV
14 and get gone. I had a friend that his home was broken into
15 near Wise three times simply by access from about a 1000
16 yards away by an ATV.

17 BENNY WAMPLER: It's a big problem.

18 LARRY STANLEY: I'd like you to do something to
19 address limiting the access to that road, if possible.
20 That's all I have.

21 BENNY WAMPLER: Do you have anything further?

22 JIM KISER: Mr. Chairman, we'd ask that the
23 application be approved as submitted.

24

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1 BENNY WAMPLER: Any other questions from members of
2 the Board?
3 (No audible response.)
4 BENNY WAMPLER: Is there a motion?
5 JIM McINTYRE: So moved.
6 BENNY WAMPLER: Motion for approval.
7 DENNIS GARBIS: Second.
8 BENNY WAMPLER: Second. Any further discussion?
9 (No audible response.)
10 BENNY WAMPLER: All in favor, signify by saying
11 yes.
12 (All members signify by saying yes.)
13 BENNY WAMPLER: Opposed, say no.
14 (No audible response.)
15 BENNY WAMPLER: You have approval. The next item
16 on the agenda is a petition from Equitable Production Company
17 for VC-535631. This is docket number VGOB-05-0118-1395.
18 We'd ask the parties that wish to address the Board in this
19 matter to come forward at this time.
20 JIM KISER: Again, Mr. Chairman and Board members,
21 Jim Kiser and Don Hall on behalf of Equitable Production
22 Company.

23
24
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DON HALL

1 having been duly sworn, was examined and testified as
2 follows:
3

DIRECT EXAMINATION

QUESTIONS BY MR. KISER:

4
5
6 Q. Mr. Hall, if you'd again state your name for
7 the Board, who you're employed by and in what capacity?

8 A. My name is Don Hall. I'm employed by
9 Equitable Production Company as district landman.

10 Q. And are you familiar with the application we
11 filed seeking to pool any unleased interest within the unit
12 for VC-535631, which was dated December 17th, 2004?

13 A. Yes.

14 Q. Does Equitable own drilling rights in the
15 unit involved here?

16 A. We do.

17 Q. And prior to filing the application, were
18 efforts made to contact each of the respondents and an
19 attempt made to work out an agreement?

20 A. Yes.

21 Q. In fact, in this case, we do have everyone
22 who has an ownership interest in both the gas estate and the
23 coal estate under lease within the exception of the gas
24

1 estate in Tracts 4 and 5, which is owned by the unknown Mary
2 Turner heirs?

3 A. That's correct.

4 Q. Okay, so what is the interest that is under
5 lease to Equitable at this time in the gas estate?

6 A. We have 98.35% of the gas estate leased.

7 Q. With 1.65% remaining unleased?

8 A. That's correct.

9 Q. And a 100% of the coal estate is under
10 lease?

11 A. That's correct.

12 Q. Now, were reasonable and diligent efforts
13 made and sources checked to identify and locate any unknown
14 heirs including primary sources such as deed records, probate
15 records, assessor's records, treasurer's records and any
16 secondary sources such as telephone directories, city
17 directories, family and friends?

18 A. Yes.

19 Q. In your professional opinion, was due
20 diligence exercised to try to locate the unknown Mary Turner
21 heirs?

22 A. Yes.

23 Q. Are the addresses set out in Exhibit B to
24

1 the application the last known addresses for the respondents?

2 A. Yes.

3 Q. Are you requesting this Board to force pool
4 all the unleased interest listed at Exhibit B-3?

5 A. Yes.

6 Q. Again, are you familiar with the fair market
7 value of drilling rights in the unit here and in the
8 surrounding area?

9 A. Yes.

10 Q. Could you advise the Board as to what those
11 are?

12 A. A five dollar bonus with a five year term
13 and a one-eighth royalty.

14 Q. In your opinion, do the terms you've just
15 testified to represent the fair market value of and the fair
16 and reasonable compensation to be paid for drilling rights
17 within this unit?

18 A. They do.

19 JIM KISER: Mr. Chairman, at this time, as to the
20 election options afforded any unleased parties, which in this
21 case they're unknown parties, and their time in which to make
22 those elections and the ramifications of making those
23 elections that was taking in the hearing proceeding this,

24

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1 which was VGOB-05-0118-1394, we'd ask that that be
2 incorporated?

3 BENNY WAMPLER: That will be incorporated.

4 Q. In this case, Mr. Hall, we do have both
5 conflicting ownership claims to Tracts 4 and 5 and we do have
6 unknown owners of the gas estate in Tracts 4 and 5. So the
7 Board does need to establish an escrow account for any
8 proceeds attributable to those two tracts?

9 A. Yes.

10 Q. And who should be named operator under any
11 force pooling order?

12 A. Equitable Production Company.

13 Q. And what is the proposed depth of this well?

14 A. 2500 feet.

15 Q. What are the estimated reserves for this
16 unit?

17 A. 300 million cubic feet.

18 Q. Are you familiar with the well costs for
19 this particular well?

20 A. Yes.

21 Q. Has an AFE been reviewed, signed and
22 submitted to the Board as Exhibit C?

23 A. It has.

24

--

1 Q. Was it prepared by engineering department
2 that's knowledgeable in regard to well costs in this
3 particular area?

4 A. Yes.

5 Q. In your professional opinion, does it
6 represent a reasonable estimate of the well costs?

7 A. It does.

8 Q. Could you state for the Board both the dry
9 hole cost and complete well costs for this well?

10 A. The dry hole cost is \$117,059 and the
11 completed well cost is \$266,100.

12 Q. Do these costs anticipate a multiple
13 completion?

14 A. They do.

15 Q. Does your AFE include a reasonable charge
16 for supervision?

17 A. Yes.

18 Q. In your professional opinion, would the
19 granting of this application be in the best interest of
20 conservation, the prevention of waste and the protection of
21 correlative rights?

22 A. Yes.

23 JIM KISER: Nothing further of this witness at this
24

1 time, Mr. Chairman.

2 BENNY WAMPLER: In looking at your plat for your
3 well location, you're outside the window?

4 DON HALL: Uh-huh.

5 JIM KISER: Did you seek...either in the permit
6 being applied for or will be applied for, will you seek an
7 exception to the permitting process for that location?

8 DON HALL: We did and the permit was issued
9 1/11/05.

10 BENNY WAMPLER: Questions from members of the Board
11 of this witness?

12 (No audible response.)

13 BENNY WAMPLER: Do you have anything further?

14 JIM KISER: Mr. Chairman, we'd ask that the
15 application be approved as submitted.

16 BENNY WAMPLER: Is there a motion?

17 JIM MCINTYRE: So moved.

18 BENNY WAMPLER: Motion for approval.

19 BILL HARRIS: Second.

20 BENNY WAMPLER: Second. Any further discussions?

21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying
23 yes.

24
--

1 (All members signify by saying yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. The next item
5 is a petition from Equitable Production Company for pooling
6 of a coalbed methane unit VC-502967, docket number VGOB-05-
7 0118-1396. We'd ask the parties that wish to address the
8 Board in this matter to come forward at this time.

9 JIM KISER: Again, Mr. Chairman, Jim Kiser and Don
10 Hall on behalf of Equitable Production. In this particular
11 application, we are pleased to announce that we can withdraw
12 it. If you'll look at your Exhibit B, originally the
13 unleased interest, which were in the gas estate only, were
14 found in Tracts 2, 3 and 4, Ike Bowman, F. Rufus Bowman and
15 then Ike Bowman again in Tract 4. Since the filing of this
16 application, Ike Bowman bought Tract 3 from Rufus Bowman.
17 Then this morning at, I guess about 9:30, Mr. Bowman signed a
18 lease with Mr. Hall. So we now have both 100% of the gas
19 estate and coal estate under lease and we can withdraw the
20 application and have...and we have a voluntary unit.

21 BENNY WAMPLER: Very good. The next item on the
22 agenda is a petition from Appalachian Energy, Inc. for
23 pooling of a coalbed methane unit AE-147, docket number VGOB-
24

1 05-0118-1397. We'd ask the parties that wish to address the
2 Board in this matter to come forward at this time.

3 JIM KISER: Mr. Chairman and members of the Board,
4 Jim Kiser on behalf of Appalachian Energy, Inc. We'll have
5 two witnesses in this matter. Mr. Jim Talkington will be our
6 witness regarding land matters and Mr. Tom Blake as to
7 operations. We'd ask that they both be sworn at this time.

8 (Jim Talkington and Tom Blake are duly sworn.)
9

10 JIM TALKINGTON
11 having been duly sworn, was examined and testified as
12 follows:

13 DIRECT EXAMINATION

14 QUESTIONS BY MR. KISER:

15 Q. Jim, if you could state your name for the
16 Board, state what your capacity is with Appalachian Energy.

17 A. Jim Talkington, Landman for Appalachian
18 Energy.

19 Q. And you have previously testified before the
20 Board going back, I guess, probably six or seven years and
21 periodically during that period for...on Virginia gas
22 matters?

23 A. That's correct.

24 Q. Okay. And your responsibilities include the
~

1 land involved in this unit?

2 A. They do.

3 Q. And you're familiar with the application
4 that Appalachian Energy filed seeking to pool any unleased
5 interest in the unit and makes up 80.147, which was dated
6 December the 17th, 2004?

7 A. Yes.

8 Q. Now, does Appalachian Energy own drilling
9 rights in the unit involved here?

10 A. Yes, they do.

11 Q. And prior to filing the application, did you
12 make efforts to contact each of the respondents within the
13 unit and make an attempt to work out a voluntary agreement
14 with them?

15 A. Yes, I did.

16 Q. And what is the interest of Appalachian
17 Energy, Inc. that's under lease in both the gas and coal
18 estate within this unit?

19 A. 94.6%.

20 Q. And in this case, we have...it's actually
21 just a two tract unit and the oil...it's fee mineral. In
22 other words, the oil, gas and coal are all owned by the same
23 folks?

24 A. That's correct.

--

1 Q. And are all the unleased parties set out in
2 Exhibit B-3?

3 A. Yes, they are.

4 Q. And what is the interest in the oil, gas and
5 coal estate that remain unleased?

6 A. 5.4%.

7 Q. Now, were...we don't have any unknown
8 interest owners within this unit?

9 A. No.

10 Q. In your opinion, was due diligence exercised
11 to locate each of the respondents named herein?

12 A. Yes, it was.

13 Q. And are the addresses set out in Exhibit B
14 to the application, the last known addresses for the
15 respondents?

16 A. Yes, they are.

17 Q. Are you requesting this Board to force pool
18 all the unleased interest as listed at Exhibit B-3?

19 A. Yes, we are.

20 Q. And can you kind of explain the lease
21 situation in Tract 2 before we go any further?

22 A. Tract 2 is an estate with three heirs. Two
23 of those heirs have entered into oil and gas leases with
24 Panther Development.

--

1 Q. Oil, gas and coalbed methane.
2 A. Oil, gas and coalbed methane, I'm sorry.
3 The third heir has not agreed to lease at this time.
4 Q. Okay. And you've contacted both the third
5 heir and Panther development as the oil, gas and coalbed
6 methane lessee?
7 A. Yes, we have.
8 Q. Okay. Now, are you familiar with the fair
9 market value of drilling rights in the unit here and in the
10 surrounding area?
11 A. Yes, I am.
12 Q. Could you advise the Board as to what those
13 are?
14 A. Five dollars per acre per year with a five
15 year term and a one-eighth royalty.
16 Q. In your opinion, do the terms you've just
17 testified to represent the fair market value of and fair and
18 reasonable compensation to be paid for drilling rights within
19 this unit?
20 A. Yes, they do.
21 JIM KISER: Mr. Chairman, do...since it's a
22 different applicant at this point, do I need to go through
23 the election testimony or can I---?
24 BENNY WAMPLER: You can incorporate it.

--

1 JIM KISER: I can incorporate it?

2 BENNY WAMPLER: Uh-huh.

3 JIM KISER: At this point, we'd ask that the
4 testimony taken previously regarding the statutory election
5 options afforded any unleased parties their time periods in
6 which to make them that was previously taken in 05-0118-1394
7 be incorporated for these purposes.

8 BENNY WAMPLER: That will be incorporated.

9 Q. Now, Jim, I guess we've talked about, we do
10 not need to establish a escrow account, is that correct?

11 A. That's correct.

12 Q. There's no conflicting claim and there's no
13 unknown parties?

14 A. Correct.

15 Q. And who should be named the operator under
16 any force pooling order?

17 A. Appalachian Energy, Inc.

18 JIM KISER: That's all I'd have for this witness at
19 this time, Mr. Chairman.

20 BENNY WAMPLER: Any questions from members of the
21 Board of this witness?

22 (No audible response.)

23 BENNY WAMPLER: Call your next witness.

24 TOM BLAKE

1 having been duly sworn, was examined and testified as
2 follows:

3 DIRECT EXAMINATION

4 QUESTIONS BY MR. KISER:

5 Q. Mr. Blake, if you would state your name for
6 the Board, who you're employed by and in what capacity?

7 A. Tom Blake, Appalachian Energy, Vice
8 President.

9 Q. And I'm not...I can't remember whether or
10 not you've previously testified before the Board.

11 A. It's been years since.

12 Q. Just in case, if you will give them kind of
13 a brief synopsis both your educational background and your
14 work experience.

15 A. Okay. I have a Bachelor of Science from
16 Penn State University; an MBA from West Virginia. I have
17 worked for a number of companies, most recently I ran
18 Equitable Production and also Columbia Natural Resources and
19 now I'm with Appalachian Production and Appalachian Energy.

20 Q. And the total depth of the proposed well
21 under your plan of development here?

22 A. Yes, 1455.

23 Q. And the estimated reserves for the unit?

24 A. 250 million cubic feet.

--

1 Q. Now, you're familiar with the well costs for
2 the proposed well?
3 A. Yes.
4 Q. And an AFE has been reviewed signed and
5 submitted to the Board as Exhibit C, and I think you actually
6 prepared that AFE?
7 A. Yes, I did.
8 Q. In your opinion, does it represent a
9 reasonable estimate of the well costs?
10 A. Yes.
11 Q. Could you state for the Board both dry hole
12 costs and completed well costs for this well?
13 A. The dry hole 108,030 and completed well cost
14 254,685.
15 Q. And does these costs anticipate a multiple
16 completion?
17 A. Yes.
18 Q. Does your AFE include a reasonable charge
19 for supervision?
20 A. Yes.
21 Q. In your professional opinion, would the
22 granting of this application be in the best interest of
23 conservation, the prevention waste and the protection of
24 correlative rights?

--

1 A. Yes.

2 JIM KISER: Nothing further of this witness at this

3 time, Mr. Chairman.

4 BENNY WAMPLER: Questions from members of the

5 Board?

6 (No audible response.)

7 BENNY WAMPLER: Do you have anything further?

8 JIM KISER: We'd ask that the application be

9 approved as submitted.

10 BENNY WAMPLER: Is there a motion?

11 JIM McINTYRE: Motion to approve.

12 DENNIS GARBIS: Second.

13 BENNY WAMPLER: Motion is approved and seconded.

14 Any further discussion?

15 (No audible response.)

16 BENNY WAMPLER: All in favor, signify by saying

17 yes.

18 (All members signify by saying yes.)

19 BENNY WAMPLER: Opposed, say no.

20 (No audible response.)

21 BENNY WAMPLER: You have approval. Thank you.

22 BOB WILSON: Mr. Chairman, while we have these

23 folks here from Appalachian Energy, there's an issue that we

24 need to address relative to Appalachian Energy. We could do

--

1 this, I think, in an administrative fashion as we've done in
2 the past. Appalachian Energy wells were purchased...they
3 actually purchased the Virginia Gas Exploration Company and
4 all assets of that company, they've since changed the name to
5 Appalachian Energy. We need to issue an order recognizing
6 the fact that all pooling orders applied to Virginia Gas
7 Exploration Company now apply Appalachian Energy. We've done
8 this, of course, recently...most recently when CNX Gas
9 Company consolidated their holdings into CNX from their prior
10 predecessor companies.

11 Basically, what it amounts to is a very short order
12 stating what I've just said along with a list of all of the
13 units that are affected by that order. What we did the last
14 time, the Board approved the concept and basically the
15 operator and my office worked out the details and issued the
16 order. I would like to do one thing differently this time
17 though. In the past, these administrative changes have not
18 carried docket numbers with them and they are occasionally
19 referred to in other Board actions. So, we need, I think, to
20 issue a docket number to these and I would like to also issue
21 a docket number to this CNX number that we did a year or so
22 ago such that it can be referred to...these are recorded in
23 all affected counties and in all counties that have any of
24 these operations, I should say. I would like to just pluck

--

1 the next docket numbers and put them on these things so that
2 they can be properly referred to in the future orders.

3 BENNY WAMPLER: Are you making...he has stated his
4 request. But do you---?

5 JIM KISER: That sounds good to me. If we can do
6 it without having to do it before the Board.

7 BOB WILSON: I'll send you a bill.

8 JIM KISER: Yeah. Because we'll have...Jim or
9 somebody will do the legwork---.

10 DENNIS GARBIS: Make it payable---.

11 JIM KISER: ---in his office, I guess. Are
12 you...did you actually draft an order or did Anita provide it
13 to you with all the different units or what? I mean, what
14 do---.

15 BOB WILSON: We...we---.

16 JIM KISER: ---you want Appalachian Energy to do?

17 BOB WILSON: We actually provided the information
18 from our files and the draft order, quite honestly I don't
19 remember who did the draft at that particular time, but
20 that's not a major situation. It's a one page order
21 basically. The order can be drafted by either of us. What
22 we did with---.

23 JIM KISER: You provided CNX with a list?

24 BOB WILSON: We provided CNX with a list of all of
~

1 our permitted operations and their...and the names of the
2 predecessor companies. I sent to them and they verified that
3 and then attached it to the order.

4 JIM KISER: Okay. We'll be willing to do...if you
5 want to use the same process, that's fine with us.

6 BENNY WAMPLER: Yeah, I mean, I think we had it on
7 the docket when we did it. You know, I'd feel more
8 comfortable if we had it on the docket and scheduled it for
9 next time.

10 BOB WILSON: I don't think we had it on the docket
11 before. We can do that. That wouldn't be any problem
12 putting it on the docket. Actually, that would be better
13 because we could issue the numbers.

14 JIM KISER: That's fine, too.

15 BOB WILSON: Again, I think that part of what
16 happened the last time---.

17 JIM KISER: Just show up and verify it.

18 BOB WILSON: ---we didn't docket it and it did not
19 end up with a docket number.

20 BENNY WAMPLER: I'd be more comfortable---.

21 JIM KISER: That's fine.

22 BENNY WAMPLER: ---with doing it that way just
23 having a docket---.

24 JIM KISER: We'll just show up and verify it. You

--

1 can put it on on your own motion.

2 BOB WILSON: Sure.

3 JIM KISER: If you'll get the information to, I
4 guess, Jim and Tom and Frank, then we'll verify it before we
5 come to the hearing.

6 BENNY WAMPLER: Let's do it that way.

7 BOB WILSON: Sure that would work out. Is there a
8 way to---?

9 JIM KISER: I guess we'll put it on for March.

10 BOB WILSON: Excuse me.

11 JIM KISER: It's too late February, isn't it?

12 BOB WILSON: I think we can go ahead and put it on
13 February if the Board...on the Board's motion, we can go
14 ahead and put it on February because that docket hasn't gone
15 to press yet. Is there a way we can address putting a docket
16 number on the prior action such that it can be referred to in
17 the future?

18 BENNY WAMPLER: Just do it.

19 BOB WILSON: Okay. That's...if the Board consents
20 to that, that's exactly what I'd to do.

21 BENNY WAMPLER: Then that's the way it will be
22 referred to.

23 BOB WILSON: Okay, thank you.

24 JIM KISER: Okay. So you all will probably go

--

1 ahead and put it on the February docket and then we'll...in
2 the meantime, we'll get the information and get it verified
3 and just make sure everybody is on the same page when we come
4 February the 15th?

5 BOB WILSON: Sure.

6 BENNY WAMPLER: Thank you. The next item on the
7 agenda is a petition for a disbursement of funds escrowed for
8 unit S-17, docket number 98-0120-0617-01. We'd ask the
9 parties that wish to address the Board in this matter to come
10 forward at this time.

11 PETER GLUBIACK: Good morning, Mr. Chairman and
12 members of the Board. My name is Peter Glubiack and I am the
13 attorney for this group of petitioners in the next series of
14 petitions involving these S-17 and the following.

15 BENNY WAMPLER: Is there any efficiency in calling
16 them all or is it better to do one at a time?

17 BOB WILSON: Mr. Chairman, excuse me.

18 BENNY WAMPLER: Mr. Wilson.

19 BOB WILSON: There are some considerations, I think
20 we probably need to do them one at a time.

21 BENNY WAMPLER: One at a time?

22 BOB WILSON: Yes, sir.

23 BENNY WAMPLER: Okay, all right.

24 PETER GLUBIACK: I know there is one that has some
~

1 problems. That is at the end. That's fine if you want to
2 start with S-17.

3 BENNY WAMPLER: Sure.

4 (Anita Duty passes out exhibits.)

5 BENNY WAMPLER: Mr. Swartz, if you'd just state
6 your name.

7 MARK SWARTZ: Mark Swartz and Anita Duty.

8 BENNY WAMPLER: You may proceed, Mr. Glubiack.

9 PETER GLUBIACK: Mr. Chairman, we've only done that
10 just once before. I believe it was in the April meeting.
11 I'm not really altogether sure this one...this is a different
12 process than a force pooling unit order or the type of
13 typical matter. We have submitted applications, notice of
14 hearing and affidavits with each of these particular
15 petitions. The first number of them involve Mr. and Mrs.
16 Jerry and Phyllis Raines and involve tracts of land that they
17 are on in these individual units. We were given...I was
18 given this morning, as was the case with the information, I
19 believe it was last April from Mr. Arrington. My
20 understanding of the process is once we file the application,
21 notice and affidavit, then Mr. Wilson requests a breakdown.
22 In fact, I think that you've just been handed out a breakdown
23 of the amounts that are attributable, in fact, this one S-17.
24 It appears that, as is indicated, Harrison-Wyatt Coal and

--

1 Jerry...it would be Jerry and Phyllis Raines, oil and gas,
2 and it looks like they have in this particular unit S-17,
3 2.47 acres, which essentially constitutes a breakout of 77%
4 of that escrowed amount for the total of 235,213. I think
5 that...that's what we're asking be disbursed. I think we
6 addressed most of the issues. These are all of the same
7 individuals who I was here for back in April. Just for the
8 Board's information, Mr. and Mrs. Raines were the only
9 individuals, the only couple, that did not have any issues in
10 terms of any liens or other encumbrances, that their original
11 application was disbursed with no trouble at all. So I would
12 anticipate, hopefully, there's no issue at this time. There
13 wasn't anything...there isn't anything yet in...this was the
14 only one that went very smoothly without any questions of
15 liens or title searches or opinions.

16 BOB WILSON: Mr. Chairman.

17 BENNY WAMPLER: Mr. Wilson.

18 BOB WILSON: We probably need to swear Mr. Glubiack
19 since you're---.

20 PETER GLUBIACK: It is different now. You're
21 right, Mr. Chairman. I'm actually speaking on behalf of the
22 client.

23 (Peter Glubiack is duly sworn.)

24 PETER GLUBIACK: So, in essence, I'll reaffirm
~

1 everything that I just said under oath. It is our position
2 that the necessary paperwork has been filed. The next number
3 of items constitute acreages that are owned by Jerry and
4 Phyllis Raines who were plaintiffs in the Harrison-
5 Wyatt/Ratliff case. As such, we're asking for their
6 percentage of escrow, which CNX has furnished us the
7 breakdown, the percentage and the actual amount that we're
8 asking be disbursed from escrow.

9 BENNY WAMPLER: Do you have anything, Mr. Swartz?

10 MARK SWARTZ: You probably need to swear Anita.

11 (Anita Duty is duly sworn.)

12

13 ANITA DUTY

14 having been duly sworn, was examined and testified as
15 follows:

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. SWARTZ:

18 Q. Did you prepare the little spreadsheet here,
19 Anita, that pertains to S-17---?

20 A. Yes.

21 Q. ---that we're talking about today? And have
22 you highlighted in purple the Raines' interest?

23 A. Yes.

24 Q. Okay Tell the Board, just in summary, what
--

1 you did with regard to the accounting for this particular
2 tract, number 7?

3 A. After the account was balanced, I just...
4 according to the acreage and how many acres was being
5 escrowed, I figured the...based on the tract acreage, the
6 percent of escrow and just put that amount over to the left.

7 Q. Okay, and basically if the...if the escrow
8 was disbursed as of the date...the last date that you had
9 numbers for, the dollars and cents in the far right hand
10 column would be what would come out using the 77.1875% of it,
11 correct?

12 A. Yes.

13 Q. And for future...future disbursement, in the
14 event that additional funds arrive, you could just use that
15 77.1875 number and it would balance the disbursement at a
16 future point, correct?

17 A. Yes.

18 Q. And that's the number that ought to be in
19 the order, the percentage?

20 A. Yeah, the percent of escrow.

21 Q. Okay. And in the instance, there's no
22 split, it would just come out to the Raines based on the
23 application, as you understand it?

24 A. Right.

--

1 Q. Okay. You've also highlighted in yellow.
2 What does...what does that refer to, something that happened
3 before or something that can happen in the future?

4 A. These units...since these units are balanced
5 and they're brought before the Board, we're just asking that
6 since there's royalty splits within those units to go ahead
7 and do those next month after notice is given.

8 Q. Okay, so we're---?

9 A. Kind of like we did the last time.

10 Q. We're alerting you that with regard to
11 Buchanan Production Company, we'll be back. Mr. Glubiack
12 doesn't need to come, but we'll be back and we're providing
13 you with---.

14 A. Since the account is already balanced for
15 this---.

16 Q. Now, you didn't...you didn't really testify
17 to that. Did you take the bank records or did you have
18 access to the bank's records---?

19 A. Yes.

20 Q. ---and the royalty records and did you
21 compare them and did they balance?

22 A. Yes.

23 MARK SWARTZ: Okay. That's all I have from---.

24 BENNY WAMPLER: Future payments would be made
~

1 directly if the Board approves?

2 MARK SWARTZ: Yes. And the order should also
3 provide for that.

4 PETER GLUBIACK: I believe the orders that have
5 already been done have provided for that and that's what
6 we've been doing, so it would be direct...it would not go
7 into escrow, in other words.

8 BENNY WAMPLER: Right. Any questions from members
9 of the Board?

10 BOB WILSON: Mr. Chairman.

11 BENNY WAMPLER: Mr. Wilson.

12 BOB WILSON: One observation, the submitted Exhibit
13 E needs to be corrected. Big Axe Land Company is still shown
14 on the Tract 7 as requiring escrow. Of course, there would
15 be no further escrow under Tract 7 under a revised Exhibit E.
16 I think basically what happened is they took the Raines and
17 didn't take off the prior conflicting owner who no longer has
18 a claim on it.

19 PETER GLUBIACK: Now, I guess, Mr. Wilson, I'm
20 unclear as to what Exhibit E is.

21 BOB WILSON: That should be on the back of
22 your...near the back---.

23 PETER GLUBIACK: The affidavit.

24 BOB WILSON: ---of your application, yes, sir. The

--

1 second page from the back.

2 BENNY WAMPLER: You're requesting him to resubmit
3 ...to submit a revised exhibit.

4 BOB WILSON: Yes. We'd just need---

5 PETER GLUBIACK: I would point out that that comes
6 from the order itself. So, what you're saying is retype that
7 and reflect---

8 BOB WILSON: Yes, the Exhibit E as submitted with
9 the application is supposedly a revised exhibit showing the
10 conditions after the order was approved. In other words,
11 this Exhibit E will go with the order that we issue for
12 disbursement.

13 PETER GLUBIACK: Okay, now, I'm sorry to be dense.

14 BOB WILSON: That's okay.

15 PETER GLUBIACK: Mr. Wilson, exact...tell me
16 exactly what you want to do.

17 BOB WILSON: You need to eliminate all reference to
18 Tract 7 under---

19 PETER GLUBIACK: Because it will no longer be
20 escrowed?

21 BOB WILSON: Correct.

22 PETER GLUBIACK: I understand. Okay.

23 BENNY WAMPLER: Okay, is there a motion?

24 JIM MCINTYRE: Motion to approve.

--

1 DENNIS GARBIS: Second.

2 BENNY WAMPLER: Second. Any further discussion?

3 (No audible response.)

4 BENNY WAMPLER: All in favor, signify by saying

5 yes.

6 (All members signify by saying yes.)

7 BENNY WAMPLER: Opposed, say no.

8 (No audible response.)

9 BENNY WAMPLER: You have approval. The next item

10 on the agenda is a petition for disbursement of escrowed

11 funds for unit T-17, docket number 92-1117-0284-01. We'd ask

12 the parties that wish to address the Board in this matter to

13 come forward.

14 PETER GLUBIACK: Mr. Chairman, Peter Glubiack on

15 behalf of Mr. and Mrs. Raines, the applicants. I would

16 essentially repeat everything that was said previously.

17 We're here asking today that moneys held on account in the

18 escrow account on their behalf pursuant to the Harrison-Wyatt

19 case be distributed. Notice of application, affidavit and

20 supporting documents were filed. According to the

21 disbursement sheet that I was given today by CNX, on unit

22 S...I'm sorry, T-17, we have actually two applicants. I take

23 that back. I'm sorry, I had my units...the first one is Ira

24 Ratliff, 4.35 acres, 64.54%, \$916.42; the second one is

--

1 Harrison-Wyatt/Bill and Geneva Ratliff 2.1632 and change
2 percent, \$455.05.

3 Two or three things, housekeeping, we have
4 previously filed on Ira Gordon Ratliff, the requested title
5 certificate and indemnification agreement. We have also
6 filed as of last week on January the 11th, I believe, with
7 Mr. Wilson the necessary indemnification agreement for Bill
8 and Geneva Ratliff. So, those have both been covered. I
9 understand Mr. Wilson has not heard from Mr. Byrum of the
10 AG's office, but we'll take care of that and I understand
11 that's a necessary requirement. With that necessary...it is
12 our position that the necessary documents and other things
13 have been filed. I'm just waiting...Mr. Wilson...I'm not
14 sure if Mr. Swartz wants to go first, but I'm...do we need to
15 amend Exhibit E, again, also?

16 BOB WILSON: No, I don't think so. I'm
17 finding...the two tracts that you're addressing here are 4A
18 and 4B, is that correct?

19 PETER GLUBIACK: That's correct, yes.

20 BOB WILSON: The supplemental order, which is the
21 last thing we have in the file here, references Tracts 5 and
22 6 for Ira and Billy Ratliff, respectively. This...I might
23 need to ask the question---

24 MARK SWARTZ: This is repooled so there's another
~

1 order out there somewhere.

2 ANITA DUTY: In '95, I think the tract IDs were
3 revised and the numbers changed.

4 PETER GLUBIACK: Did they change to 4A and 4B or
5 are we---?

6 ANITA DUTY: Right.

7 PETER GLUBIACK: So, we're correct now?

8 ANITA DUTY: What's on this sheet is correct. What
9 was on the---?

10 BOB WILSON: Okay. Is all of the money escrowed
11 under this docket number we're looking at here?

12 ANITA DUTY: Yes.

13 BOB WILSON: Okay.

14 BENNY WAMPLER: Okay, Mr. Swartz.

15 ANITA DUTY

16 DIRECT EXAMINATION

17 QUESTIONS BY MR. SWARTZ:

18 Q. Anita, did you have access to the bank's
19 records with regard to the escrow for T-17?

20 A. Yes.

21 Q. And did you compare those records to the
22 royalty agent's records?

23 A. Yes and the account balanced.

24 Q. And, again, what you're indicating here is

--

1 an...is an amount in the far right hand...a dollar amount in
2 the far right hand column that you used using the percentage,
3 which is reported at about the middle of the graph or chart,
4 correct?

5 A. Yes.

6 Q. And for disbursement purposes, assuming that
7 additional money might come in between the time you did your
8 work and the time of the disbursement is made, the order
9 should provide that the escrow agent should use the
10 percentage to make the disbursement?

11 A. Yes.

12 Q. Okay. And the disbursements that you're
13 contemplating based on the application that you caused you to
14 balance the account are identified in purple, right?

15 A. Yes.

16 Q. And then you've also identified VPC in
17 yellow here and are you simply giving the Board a heads up
18 that we would like to come back next month, as long as you've
19 done the accounting, and make that disbursement as well?

20 A. Yes.

21 BENNY WAMPLER: Mr. Wilson, do you have anything to
22 update us? I mean, Mr. Glubiack referred to something
23 you're working with Mr. Byrum on.

24 BOB WILSON: This actually has to do with the

--

1 indemnification that we did last time as well. There is an
2 IRS agreement that we're waiting on and I did get faxed
3 copies of an indemnification letter from Bill Davidson,
4 Etherington and Morris, basically...I have copies of it here.
5 I'll pass this out for you.

6 (Mr. Wilson passes out the letter.)

7 BOB WILSON: But, as we had left all of this at the
8 prior disbursement hearing, we were working with John Byrum
9 in the AG's office in Richmond on these. Basically, we've
10 gotten no indemnification prior to this date on Bill and
11 Geneva Ratliff, I believe.

12 PETER GLUBIACK: That's correct.

13 BOB WILSON: And this title opinion or title letter
14 basically indemnifies Bill and Geneva Ratliff for all things
15 except the tax lien. Again, it's my understanding that that
16 tax lien, there is an agreement in place, but we don't have
17 any documentation of that to this point. We don't have
18 approval, I should say, through our AG's office in Richmond.

19 PETER GLUBIACK: But we have an agreement, Mr.
20 Byrum has it. You may or may not have it. I don't know.
21 But that was the basis for the agreement, yes.

22 BOB WILSON: There is a copy of the letter from Mr.
23 Glubiack to Mr. Tom Hunter of the Internal Revenue Service
24 basically outlining the proposal here. But, again, it hasn't

--

1 gotten to the point that we've gotten any---.

2 PETER GLUBIACK: Mr. Wilson, I thought it was in
3 the package. Let me just ask real quickly.

4 BOB WILSON: Sure.

5 PETER GLUBIACK: You don't have a copy of the
6 letter from the IRS dated November the 10th?

7 BOB WILSON: No, sir.

8 PETER GLUBIACK: Okay, you don't have that?

9 BOB WILSON: No, sir, I haven't seen it.

10 PETER GLUBIACK: Mr. Byrum has that. I'll have to
11 make sure he gets that to you.

12 BOB WILSON: No, I haven't seen that one.

13 PETER GLUBIACK: I have that in front of me here.

14 BOB WILSON: Now, if I remember correctly, there
15 are no liens shown in this order, the prior orders for this
16 particular docket number. Now, we just had testimony that
17 this was repooled later. I don't have a docket number on
18 that or anything.

19 ANITA DUTY: I've got the number if you want the
20 number. I've got the orders, actually copies of the repooled
21 orders.

22 BOB WILSON: What was the number on that, please?

23 ANITA DUTY: It's 95-0321-0493.

24 BOB WILSON: Okay. And in answer to an earlier

--

1 question, Mr. Glubiack, probably we will need a revised
2 Exhibit E from that particular order to bring it up to date
3 since these tract designations were changed from that order.
4 But---.

5 PETER GLUBIACK: Can I have that number again,
6 please?

7 ANITA DUTY: It's 95-0321-0493.

8 PETER GLUBIACK: And that is the repooling order,
9 which resulted in the renaming of tracts 4A and 4B?

10 ANITA DUTY: Right.

11 PETER GLUBIACK: Okay. And, Mr. Wilson, if I'm
12 hearing you, you need a revised Exhibit A referencing the
13 new...you know, apparently we have the tract numbers right,
14 we have to get the pooling order right.

15 BOB WILSON: Yes, we need to make it such that the
16 references are all...we have a chain of reference that we can
17 follow.

18 PETER GLUBIACK: And the only good part of that is
19 apparently the numbers are correct.

20 BOB WILSON: Yes, I think that's the case.

21 PETER GLUBIACK: All right.

22 BENNY WAMPLER: Where does that leave us as to the
23 action of the Board? Pending the resolution of the...
24 approval pending the resolution with AG's office on the

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1 indemnification, which would include the IRS?

2 BOB WILSON: Well, again, in my file on the one
3 that we're considering today, there are no liens recorded
4 against this...these owners in this particular action.

5 PETER GLUBIACK: I will stipulate, Mr. Chairman,
6 the same people and the same situation. So, I'm not even
7 absolutely sure except where I think the other...Bill and
8 Geneva Ratliff have a previous order that was essentially
9 held pending the resolution of the lien issues, the largest
10 of which was the IRS issue.

11 BENNY WAMPLER: Right.

12 PETER GLUBIACK: That has been addressed, an
13 indemnification letter has gone out and the agreement with
14 the IRS is in place. I've been in contact with Mr. Byrum.
15 He, obviously, hasn't communicated to Mr. Wilson. But what I
16 would ask, this is a relatively modest amount of money, is
17 simply that the order is...the order is issued pending
18 resolution with the Attorney General's office and Mr. Wilson,
19 then, obviously, those issues are there. But regardless of
20 whether the liens are indicated in the package or not,
21 they're there. It's the same issue.

22 BENNY WAMPLER: Right.

23 BOB WILSON: The way this particular aspect was
24 left the last time was that once we got proper go ahead,

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1 basically, from the Richmond AG's office, then we could go
2 back to the prior testimony and issue disbursement orders for
3 Bill Ratliff under the previous action that we did and it was
4 left for...I guess for me to see that we had proper
5 documentation and then we could go forward with that.

6 SHARON PIGEON: What did you say the date was on
7 the IRS letter?

8 PETER GLUBIACK: November the 10th.

9 SHARON PIGEON: Of 2004?

10 PETER GLUBIACK: 2004. The memo from the IRS from
11 a Ms. Fells, I have a copy here, it was dated November the
12 10th. That was sent to Mr. Byrum, a number of conversations
13 with him, his final conclusions just before Christmas was
14 let's go ahead and get another indemnification letter. There
15 was some discussion of language. That indemnification letter
16 was issued on January the 11th, I believe, which would have
17 been last week.

18 BENNY WAMPLER: That's the one we have here.

19 PETER GLUBIACK: And my understanding after talking
20 with Mr. Wilson, is he has not, in fact, had a conversation
21 with Mr. Byrum, but you do have a copy of the letter from
22 Land Title?

23 BOB WILSON: Yes. But we have the faxed copy.

24 PETER GLUBIACK: Right. I think he has the

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1 original.

2 BENNY WAMPLER: And the IRS approved the

3 settlement?

4 PETER GLUBIACK: Yes.

5 SHARON PIGEON: Do they have a date or time frame

6 that they were settling?

7 PETER GLUBIACK: Send them the money whenever we

8 get it.

9 SHARON PIGEON: I meant, did they have a time frame

10 that they looked at for liens that you were settling?

11 PETER GLUBIACK: Through the date of November the

12 10th.

13 SHARON PIGEON: Through the date of the---.

14 PETER GLUBIACK: It's considerably less than what

15 the lien is. So, it's a partial...it's not anywhere near

16 close of a full settlement. So, it was a partial settlement

17 agreement.

18 SHARON PIGEON: But it's through the date of their

19 letter to you?

20 PETER GLUBIACK: Yes.

21 BOB WILSON: Presumably the disbursement will be

22 made directly to the IRS?

23 PETER GLUBIACK: No. I'll have to get

24 verification, but the verification I have is disbursement is

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1 made to me as the agent. I have to...I have to cut the money
2 up into...Geneva Ratliff, for instance, gets 50% of it and
3 then Bill Ratliff's percentage of it goes to the IRS and I'm
4 responsible for doing that pursuant to the terms of the
5 agreement that I've got with the IRS and Mr. Byrum.

6 BENNY WAMPLER: And then subsequent payments...
7 direct payments would be the same way, to you?

8 PETER GLUBIACK: The same way I got the other
9 checks, and I'm responsible for handling that. I don't want
10 to complicate it anymore than I have to. But their position
11 is, there's no lien...they don't have to issue any release
12 of...it's not a release of any property, they're just going
13 to issue a letter saying receipt and no claim against...no
14 further claim against that money. So, they're...they've
15 settled for 50% of net proceeds is their settlement from that
16 fund. It would be the same with this \$455. 50% of net
17 proceeds will go to the IRS. They have not addressed what
18 happens in the future. But that's up through now.

19 BOB WILSON: I think possibly what Mr. Wampler's
20 question was about had to do with payment of future
21 revenues---.

22 BENNY WAMPLER: Future revenues.

23 BOB WILSON: ---and future royalties.

24 PETER GLUBIACK: I'd like to have an answer for
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1 you, but I don't. Well, they...we were trying to get what's
2 called an offer and compromise, which is this is it, and
3 that's what Mr. Hunter, who is the revenue agent in Bristol
4 wanted to do and he has not gotten an answer. There's a Ms.
5 Fells in Richmond, who is his boss and she has not answered.

6 So, actually you're right, I don't know what it means in
7 terms of future revenue. I think this order needs to address
8 these discreet sums and I'm afraid the only thing I can do is
9 say that any future---

10 BENNY WAMPLER: Well, if it's continued to pay into
11 escrow, which it would be unless we direct otherwise---

12 PETER GLUBIACK: It has to be.

13 BENNY WAMPLER: ---then you'd have to come back.

14 PETER GLUBIACK: I think there's no other way.

15 BENNY WAMPLER: Just so you know that.

16 PETER GLUBIACK: I was hoping to have a definitive
17 answer, but I don't.

18 BENNY WAMPLER: Okay.

19 PETER GLUBIACK: All I know, is that the money
20 that's there now is subject to this 50% net royalty.

21 BENNY WAMPLER: Okay. Okay. I just wanted to
22 cover that base so that we would know. Anything further?

23 (No audible response.)

24 BENNY WAMPLER: Mr. Swartz, do you have anything
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1 further?
2 (No audible response.)
3 DENNIS GARBIS: Mr. Swartz?
4 MARK SWARTZ: I heard you. I'm just trying to get
5 an answer to a question you've raised. What Anita is telling
6 me is the way they've got it set up is they're going to be
7 paying these people directly and they have been paying them
8 directly. They're not going to be paying you for
9 disbursements. I'm not talking in the future.
10 PETER GLUBIACK: Yeah.
11 ANITA DUTY: All the orders that have already been
12 issued.
13 MARK SWARTZ: Yeah. I mean, that's what's
14 currently happening.
15 PETER GLUBIACK: Yeah.
16 MARK SWARTZ: And if the IRS wants to do something
17 about future payments---.
18 PETER GLUBIACK: I understand.
19 MARK SWARTZ: ---they're going to have to do
20 something different because---.
21 PETER GLUBIACK: I'll have...I understand that.
22 I...it probably needs to be addressed in the order. The
23 problem is getting an answer in the time table. But---.
24 BOB WILSON: And we have not paid out anything to
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1 Bill Ratliff at this point in time because of all of this.

2 PETER GLUBIACK: No, no, no.

3 BOB WILSON: So, that's...there is no precedent on
4 that.

5 BENNY WAMPLER: I don't know. That's not what
6 she's saying.

7 MARK SWARTZ: I think on the other ones...I think
8 as payments accrue forward...you know, we've got two things
9 here, what do we do with the money coming out of escrow?
10 That's what you've talked about.

11 PETER GLUBIACK: Right.

12 MARK SWARTZ: Okay, and I understand that. I don't
13 have a problem with that. I really don't have a problem with
14 the future either. But when that happens, the account is
15 closed.

16 BENNY WAMPLER: That's right.

17 MARK SWARTZ: You know, the operator is paying
18 these people directly.

19 BENNY WAMPLER: Right.

20 MARK SWARTZ: And my...you know, I'm not your
21 lawyer. You know, I'm just their lawyer. I mean, my view
22 is, unless you have, you know, a garnishment or a suggestion
23 from the IRS, you're fine, okay. So, I'm not concerned here.
24 I'm not sure that you need to be concerned. You have an

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1 attorney. You can talk to her. You know, but I...I just
2 wanted to let you know that going forward, you know, for
3 future royalties, we're paying these people.

4 BENNY WAMPLER: Uh-huh.

5 MARK SWARTZ: And if you want it to be different,
6 you need to tell us. We don't care. But...because there are
7 a bunch of units they were in.

8 BENNY WAMPLER: I mean, that's the way I...
9 generally, that's the way...Sharon can beat me over the head,
10 but generally that's the way I would view it.

11 MARK SWARTZ: Right.

12 BENNY WAMPLER: That would be up to Mr. Glubiack
13 then to advise his clients of what his obligation to the IRS
14 is, you know.

15 MARK SWARTZ: Right. I'm not sure we're in that
16 going forward.

17 BENNY WAMPLER: So that---.

18 MARK SWARTZ: But we needed to tell you that.

19 BENNY WAMPLER: I'm in agreement that you would pay
20 just like you normally would once we close...we would close
21 this account and be paid directly to the parties, unless...
22 that's what I said, unless you want it paid to you.

23 PETER GLUBIACK: I don't know what else to tell
24 you. I have not gotten an answer. I prefer to do it that
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1 way and let them deal with it.

2 MARK SWARTZ: I wanted you to be aware of the fact
3 that's occurring, you know, on the other ones.

4 BENNY WAMPLER: And you might communicate that to
5 Mr. Byrum that that's the way we view this, and, you know, if
6 there's any kind of thing that needs to be resolved, then
7 that needs to be resolved.

8 BOB WILSON: Okay.

9 PETER GLUBIACK: Can we get an order pending
10 approval?

11 BENNY WAMPLER: I don't know. We'll see.

12 PETER GLUBIACK: I'm asking.

13 BENNY WAMPLER: We'll see. Is there a motion?

14 JIM MCINTYRE: Motion to approve.

15 BENNY WAMPLER: Motion to approve pending approval
16 of the---.

17 JIM MCINTYRE: That's correct.

18 BENNY WAMPLER: ---from the Attorney General's
19 office.

20 BILL HARRIS: Second.

21 BENNY WAMPLER: Motion and second. Any further
22 discussion?

23 ANITA DUTY: Can I just say one...now, on the
24 additional disbursements that we're going to show just show
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1 proof of mailing next month, they're with these same units,
2 we can...that can go ahead and be done, right, we don't have
3 to...or do you want all...everything to be done in one order?

4 We're not talking about a lot of money, so it doesn't
5 matter. But just as far as keeping this spreadsheet to where
6 it balances because once you take it, you know, one group---.

7 BENNY WAMPLER: Piece all of that out, I
8 understand.

9 ANITA DUTY: ---or person, you know, then there's
10 not that many acres escrowed anymore, so everything changes.

11 BENNY WAMPLER: Yeah.

12 ANITA DUTY: I don't know how you want to...either
13 do it all at once or---.

14 BOB WILSON: I would, considering the fact that I
15 know that these orders are not going to get drafted in the
16 next month, I was looking forward to doing all of this in
17 one---.

18 BENNY WAMPLER: In one order.

19 BOB WILSON: ---order.

20 MARK SWARTZ: And then numbers will all stay the
21 same.

22 ANITA DUTY: Yeah.

23 BOB WILSON: It's my understanding that---.

24 BENNY WAMPLER: That would be the best thing to do.

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1 BOB WILSON: ---all of this stuff is pretty close
2 to a resolution anyway. Is that---?

3 PETER GLUBIACK: From my conversations, it is
4 resolved. I had thought he had talked to you. But as I
5 said, I know he's busy, and obviously he hasn't. My
6 conversation with him last week was, I got it, Mr. Wilson has
7 got it, that's it. Now, you, obviously, don't have a copy of
8 the IRS memo. But---.

9 BOB WILSON: I would...I would suspect that we'll
10 be well past next month's hearing before any drafting is
11 being...you know, this order.

12 BENNY WAMPLER: It will fold into one then---.

13 BOB WILSON: Yeah.

14 BENNY WAMPLER: ---to answer the question. And
15 that will make is cleaner.

16 ANITA DUTY: Right. That way I don't have to
17 redo...yeah.

18 BENNY WAMPLER: Anyway not to confuse, we have a
19 motion and a second. Any further discussion?

20 (No audible response.)

21 BENNY WAMPLER: All in favor, signify by saying
22 yes.

23 (All members signify by saying yes.)

24 BENNY WAMPLER: Opposed, say no. You have
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1 approval. The next item on the agenda is a petition for disbursement of funds
2 for unit W-20, docket number 92-0721-0240-01. We'd ask the parties that wish to
3 address the Board in this matter to come forward.

4 PETER GLUBIACK: Once again, Mr. Chairman, Peter Glubiack on
5 behalf...in this case the applicant is Diana L. Graham. We are discussing unit W-
6 20. Notice of application and Affidavit have been filed. In reviewing the
7 spreadsheet of CNX, it appears that again I highlighted in purple the percentage
8 of 2.5 acres of the tract itself 3.1273% for a total of \$2623.87 and absent any other
9 questions, that's... that's the substance and that we're asking the Board approve
10 an order disbursing those funds to Ms. Graham as the owner of that account.
11

12 BENNY WAMPLER: Mr. Swartz.

13 MARK SWARTZ: Mark Swartz...Mark Swartz and Anita Duty here.
14 Anita, did you have access to the bank records and the royalty accounting
15 records?
16

17 ANITA DUTY: Yes.

18 MARK SWARTZ: Fine. And did you compare them, and what did
19 you find?

20 ANITA DUTY: The account balanced.

21 MARK SWARTZ: Okay. And with regard to the Diana Graham
22 disbursement again, would it be your request that the Order instruct the escrow
23 agent to disburse the percentage of...of the total on deposit at the time the
24

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1 disbursement is made and that would cause it to be appropriate?

2 ANITA DUTY: Yes.

3 MARK SWARTZ: Okay. Also, I see here you've got some Hugh
4 McRae/Consol highlighted in yellow, is that something you would like to come
5 back next month to give notice to those people and deal with that?

6 ANITA DUTY: Yes.

7 MARK SWARTZ: That's all I have.

8 BENNY WAMPLER: Mr. Wilson, do you have anything on this one?
9

10 BOB WILSON: No, sir.

11 BENNY WAMPLER: Any questions from members of the Board?

12 SHARON PIGEON: Should there be a page four... something here.
13 This application is in the middle of this. Page---

14 BENNY WAMPLER: Page three?

15 SHARON PIGEON: ---three.

16 BENNY WAMPLER: I have a page one and a page two.
17

18 SHARON PIGEON: Then I have and two on the end of page three
19 and then you pick up this...where this list starts. I'm not sure what that is.

20 BENNY WAMPLER: Page one and page two is inserted between
21 three and four of the...of the request.

22 SHARON PIGEON: This is the application.

23 BOB WILSON: I...didn't catch the other---.
24

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1 (Benny Wampler and Sharon Pigeon confer.)
2 BENNY WAMPLER: Yeah, the application.
3 SHARON PIGEON: Three and two and then you start with the---.
4 BENNY WAMPLER: Uh-huh. And then there's page four at the end.
5 SHARON PIGEON: Okay.
6 BENNY WAMPLER: I think that's what he's done... they've done is
7 inserted it in with the---.
8
9 JIM McINTYRE: I think the last page is the page four.
10 BENNY WAMPLER: Yeah.
11 SHARON PIGEON: So, that's just out of order.
12 BENNY WAMPLER: Yeah, it's out of order. Did you need any
13 change to Exhibit E.
14 BOB WILSON: No, sir. It looks okay. I think they have basically cut
15 and pasted and taken tract four completely out, which is exactly what we would
16 need relative to their application.
17 BENNY WAMPLER: All right. Is there a motion?
18 JIM McINTYRE: Motion.
19 BENNY WAMPLER: To approve?
20 JIM McINTYRE: To approve.
21 DENNIS GARBIS: Second.
22 BENNY WAMPLER: Motion and second. Any further discussion?
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(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All members signify by saying yes.)

BENNY WAMPLER: Opposed, say no. You have approval. Next item is a petition for disbursement of unit S-15, docket number 92-0721-0237-01. We'd ask that the parties that wish to address the Board in this matter to come forward.

PETER GLUBIACK: Once again, Mr. Chairman, Peter Glubiack on behalf of Mr. and Mrs. Jerry and Phyllis Raines. Notice of Application and Affidavit were filed to receive escrowed moneys disbursed...to be disbursed by Board order pursuant to the Harrison/Wyatt case. Again, Mr. Swartz will cover this but it appears that it is Tract four, 2.5 acres, 3.1273%. At this point...I'm sorry, I'm reading the wrong one. It is Tract two, 7.72 acres, 99% total at this point subject to verification by the escrow agent is \$7689.30.

BENNY WAMPLER: Mr. Swartz?

MARK SWARTZ: Mark Swartz and Anita Duty. Anita, did you compare the escrow agent records with the royalty accounting records?

ANITA DUTY: Yes.

MARK SWARTZ: And how...and what did you find when you did that?

ANITA DUTY: The account balanced.

1 MARK SWARTZ: Okay. And here we...we're...we're looking in
2 purple, you highlighted some information with regard to tract two and the...the
3 dollar amount on the right hand side, I assume is a static balance, correct?

4 ANITA DUTY: Yes.

5 MARK SWARTZ: So, the order should indicate to the escrow agent
6 that it should use 99.1014% to calculate the balance...the disbursement amount at
7 the time the disbursement is made, correct?

8 ANITA DUTY: Correct.

9 MARK SWARTZ: That's all I have.

10 BENNY WAMPLER: Do you have anything Mr. Wilson?

11 BOB WILSON: Yes, sir, afraid so. The supplemental order that was
12 issued under this number shows a second owner in tract two. The...the original
13 order, if I've got this thing straight here, shows Jerry Raines as the tract two
14 owner. The supplemental order shows Jerry and Phyllis Raines and Thurman W.
15 Owens and Alma G. Owens. And as I read this, it seems that they're showing that
16 they both have claims on the same 7.72 acres. I don't...again,
17 these...these...these older orders, of course, aren't done exactly the way we do
18 them now and generally, though, we have some continuity between a pooling
19 order and its supplemental but in this case people were added to the
20 supplemental and we'll see in a subsequent application, I believe in the next one
21 maybe, we have these same folks that show up in a re-pooling. Now, the
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1 accounting that we have gotten shows only the Raines as well. I'm...I'm not sure
2 what situation that is. Are
3 you---?

4 MARK SWARTZ: It's not 100% because there's---.

5 ANITA DUTY: Well, no, I think there's an order on 99 and...I
6 didn't...I...I actually didn't even catch that. That will be something I'll have to go
7 back and look in the order. I don't---.

8 MARK SWARTZ: Could I...could I see that?

9 PETER GLUBIACK: Sure. It's a supplemental.
10

11 MARK SWARTZ: I don't know what he's talking about, Anita.

12 PETER GLUBIACK: If..if I'm understanding him, you've got
13 somebody besides these Blankenships?

14 BOB WILSON: Yes. Somebody besides the Raines.

15 BENNY WAMPLER: Raines.

16 BOB WILSON: Yes.
17

18 PETER GLUBIACK: Well, no. I mean, they've got... are you talking
19 about in Tract two?

20 BOB WILSON: Yes, sir. Yes, sir.

21 PETER GLUBIACK: Because of their Tract three, yeah.

22 BOB WILSON: If you'll look at the paperwork I just gave Mr. Swartz,
23 that tract two is in supplemental only, it's showing two owners.
24

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1 PETER GLUBIACK: Right. This was the later supplemental,
2 Owens.

3 MARK SWARTZ: We need to straighten that out.

4 BENNY WAMPLER: Yeah. We'll just continue it.

5 MARK SWARTZ: I think it may have been a mistake, but we need to
6 be sure.

7 BENNY WAMPLER: All right. We'll just have to continue this one.
8 That one we've continued. Next item on the agenda is a petition for disbursement
9 of funds from unit T-15, docket number 92-0721-0236-01. We'd ask the parties
10 that wish to address the Board in this matter to come forward at this time.
11

12 PETER GLUBIACK: Mr. Chairman, I'm sorry, this is S---.

13 BENNY WAMPLER: This is---.

14 PETER GLUBIACK: T-15.

15 BENNY WAMPLER: T-15.

16 PETER GLUBIACK: Once again, I've got Jerry and Phyllis Raines. I
17 represent them as part of Harrison Wyatt case. We're asking for disbursement of
18 moneys that are held on account and if I'm correct, was this...this sheet was
19 submitted last month, is this---?
20

21 ANITA DUTY: Yeah, those...just on those two accounts, we
22 balanced last month.

23 PETER GLUBIACK: All right.
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1 ANITA DUTY: So that's (inaudible).

2 PETER GLUBIACK: A previously submitted sheet for T-15 showed
3 indicated for tract One of the unit 7.41 acres and a percentage of 24.2871% at the
4 current balance of \$2595.09 and we are asking that that money be ordered
5 disbursed pursuant to Board order.

6 BOB WILSON: Mr. Chairman?

7 BENNY WAMPLER: Mr. Wilson.

8 BOB WILSON: Let me jump in here already. This, again, is one of
9 the older orders that was repooled and has two different docket numbers. The
10 escrow...this...this unit was actually escrowed under docket number 92-1215-
11 0306---.

12 BENNY WAMPLER: Uh-huh, that's what we've got here.

13 BOB WILSON: ---which was a re-pooling and a supplemental order.
14 We have...the further problem here that the re-pooling from this particular unit
15 was pooled for purpose of bringing in those same folks that we looked at the last
16 application, being the Owens, I believe. And they are shown as, again, co-owners
17 in tract one.
18

19 BENNY WAMPLER: Okay. So, we just...we'll continue that one
20 again for next month until we get this resolved.

21 MARK SWARTZ: And that's in a supplemental, Bob, or what was
22 that?
23

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1 BOB WILSON: That's in the...that the...under 0306 was a re-
2 pooling---.

3 MARK SWARTZ: Okay.

4 BOB WILSON: ---a new order was issued to re-pooling and a new
5 supplemental was issued under that number.

6 MARK SWARTZ: Okay, under the 0306?

7 BOB WILSON: Correct.

8 PETER GLUBIACK: And under the 0306 the Owens are added as a
9 potential co-owner in the unit---?
10

11 BOB WILSON: Correct.

12 PETER GLUBIACK: ---in that tract?

13 BOB WILSON: In that tract...in that one tract, yes.

14 PETER GLUBIACK: Tract one in this particular---.

15 BOB WILSON: And they...the moneys, as I said, are escrowed
16 under this particular number.

17 BENNY WAMPLER: Okay. That's continued to next month. The
18 next item on the agenda is a petition for disbursement of funds in Unit T-16,
19 docket 92-1117-0283-01. We'd ask that the parties that wish to address the
20 Board in this matter to come forward at this time.
21

22 PETER GLUBIACK: Once again, Mr. Chairman, Peter Glubiack on
23 behalf of Mr. and Mrs. Jerry and Phyllis Raines. Again, pursuant to my previous
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1 discussions where we have presented Notice of Application and Affidavit. My
2 understanding is that...well I'm not going to jump the gun. Do we...do we have any
3 issues, Mr. Wilson?

4 BOB WILSON: Yes, sir, I'm afraid so.

5 MARK SWARTZ: He's in both tracts, Bob, or just one?

6 BOB WILSON: I'm on a roll, Pete, I'm sorry. It's in only one tract.

7 PETER GLUBIACK: Which...which tract, we've got one and two?

8 BOB WILSON: Well, first of all let me say, again, that we have the
9 same situation here as the last one, in that the money was escrowed under a
10 different account number. It is escrowed under 92-1215-0304. And the
11 supplemental order which is basically what that particular docket was, shows the
12 Owens....previously mentioned Owens as co-owners in tract one but not in tract
13 two. And it shows Tract two as being 100% Jerry and Phyllis Raines.

14 BENNY WAMPLER: So, we go ahead with that one, with Tract two?

15 PETER GLUBIACK: So, I'd ask the Board to go ahead with tract two
16 which according to the calculations again subject to Mr. Swartz's examination
17 appears to be tract two, 15.5 acres. The percentage is 24.8836. Again, the total
18 at the reconciliation is \$6755.38. I'd at least ask for an order from the Board to
19 disburse that money.

20 BENNY WAMPLER: The request to be continued to next month
21 regarding tract one just for the record, Mr. Swartz?

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1 MARK SWARTZ: Anita did...did you have access to the bank's
2 records, the escrow records and the royalty accounting records?

3 ANITA DUTY: Yes.

4 MARK SWARTZ: Were you able to balance them?

5 ANITA DUTY: Yes. This is actually the ones from last month I
6 requested. There's actually two escrow accounts that need to be combined of
7 those two docket numbers.

8 MARK SWARTZ: And they are shown here?

9 ANITA DUTY: Uh-huh.
10

11 MARK SWARTZ: And you had...and you were able to combine
12 them. And when you combined them---?

13 ANITA DUTY: Right.

14 MARK SWARTZ: ---they actually balanced?

15 ANITA DUTY: Yes.

16 MARK SWARTZ: Right. And with regard to tract two that is under
17 consideration right now, if...if the escrow agent were instructed to disburse the
18 Jerry Raines interest, the escrow agent should be told to disburse 24.8836% of
19 the balance...the total balance at the time of disbursement to cause the
20 disbursement to be in the correct amount?
21

22 ANITA DUTY: Correct.

23 MARK SWARTZ: Okay. That's all I have.
24

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1 BENNY WAMPLER: Questions from members of the Board?
2 (No audible response.)
3 BENNY WAMPLER: Is there a motion for tract two?
4 JIM McINTYRE: Motion to approve.
5 DENNIS GARBIS: Motion to approve.
6 BENNY WAMPLER: Motion to approve. Is there a second?
7 JIM McINTYRE: Second.
8 BENNY WAMPLER: There is a second. Any further discussion?
9 (No audible response.)
10 BENNY WAMPLER: All in favor signify by saying yes.
11 (Members signify by saying yes.)
12 BENNY WAMPLER: Opposed, say no. You have approval for Tract
13 two. And the last item on the agenda is petition for disbursement of funds from
14 escrow for Unit U-19, docket number 94-1024-0475-01. We'd ask the parties that
15 wish to address the Board in this matter to come forward at this time.
16 BOB WILSON: Mr. Chairman, I'll take that one.
17 BENNY WAMPLER: Okay.
18 PETER GLUBIACK: No objections.
19 BOB WILSON: I didn't think you would. The U-19 unit is operated
20 by Ratliff Gas Company. It was pooled to allow Ratliff Gas Company to provide
21 local gas service basically. There's a small amount of money in the account
22 ~
23 ~
24 ~

1 somewhere in the neighborhood of \$380, I believe. Mr. Ratliff has been
2 contacted. First of all, he had to supply us with an Affidavit stating the actual
3 percentage of a (inaudible) Graham and Ira Ratliff---.

4 PETER GLUBIACK: Don and Anne Ratliff.

5 BOB WILSON: Don and Anne Ratliff who were requesting
6 disbursement. He supplied us with that Affidavit regarding ownership. I spoke to
7 Mr. Ratliff and asked him to provide us with an accounting. We do not have that
8 to date, so I don't see as we can go forward with this.

9
10 BENNY WAMPLER: Okay. That will be continued till next month.
11 Okay. Thank you. That concludes today's agenda except approval of minutes
12 from last...last Board meeting. I will entertain any suggestions for any changes,
13 otherwise the motion for approval?

14 JIM McINTYRE: Motion to approve.

15 BENNY WAMPLER: Motion, is there a second?

16 DENNIS GARBIS: Second.

17 BENNY WAMPLER: Okay. All in favor signify by saying yes.

18 (All members signify by saying yes.)

19
20 BENNY WAMPLER: Opposed, say no. You have approval. Mr.
21 Wilson, do you have anything further?

22 BOB WILSON: A couple of very brief items. We are...will be
23 required in the future for any orders that go into Tazewell, County to provide tax ID
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1 numbers for all tracts listed. I'm going to be getting a memo out to all operators.
2 This is a requirement that the State has allowed the counties to make the...the law
3 basically says that if there is a system of tract ID numbers, then the locality will
4 require them on all documents. So, if...we're falling in line with that and we
5 have...we're not attempting to record any orders that do not have that. Like I say,
6 Wise County has a system in place, as well. So, they are allowing us to catch up
7 on our arrears. They're going to require the same thing in the future, so as I said,
8 we'll be getting some memos out to the operators pointing that out.
9

10 We're also going to clarify a bit of language in our pooling orders.
11 Apparently, there's been some misunderstanding among people who wish to
12 participate. They think the estimating costs are their actual costs in perpetuity
13 when in fact they're responsible for ongoing costs and actual costs rather than
14 those estimates. So, we're going to put a little language in there to clarify that.
15 Other than that, I don't have anything today.

16 BENNY WAMPLER: That concludes today's hearing. Thank you.
17
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19

20 STATE OF VIRGINIA,
21 COUNTY OF BUCHANAN, to-wit:

22 I, Sonya Michelle Brown, Court Reporter and Notary
23 Public for the State of Virginia, do hereby certify that the
24 foregoing hearing was recorded by me on a tape recording
~

1 machine and later transcribed under my supervision.

2 Given under my hand and seal on this the 8th day of
3 February, 2005.

4

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NOTARY PUBLIC

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7 My commission expires: August 31, 2005.

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